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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Poland, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 21 December 2001 from the Permanent Representative of Poland to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On behalf of my Government, I have the honour to submit herewith to the Counter-Terrorism Committee the report on the measures taken by the Republic of Poland to implement the provisions of Security Council resolution 1373 (2001) of 28 September 2001, as requested in paragraph 6 of the resolution (see enclosure).

My Government is strongly committed to implementing fully the provisions of resolution 1373 (2001), which constitutes a key instrument in combating international terrorism.

Recognizing that the effective prevention of terrorist acts also requires measures of an educational nature, I wish to inform you that the Republic of Poland intends to submit an appropriate initiative in this respect.

My Government stands ready to provide the Committee with further reports or information if so requested by the Committee.

I should be grateful if you would have the text of this letter and the enclosed report circulated as a document of the Security Council.

(*Signed*) Janusz **Stańczyk**
Ambassador
Permanent Representative

Enclosure

Report to the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

General observations

There is no specific legislation in Poland, both of constitutional and statutory nature, regulating the problem of implementation of decisions of international organisations, of which the Republic of Poland is a member. Steps have been undertaken to elaborate a draft law to this end, but due to rather complex and multidisciplinary legal character of the said decisions the works on the draft have not been finalised yet.

However, due to the future amendments of the Constitution, concerning the legal position of the decisions of the European Union, possible determination of the principles of implementation of specific resolutions of international organisations, including binding decisions of the United Nations Security Council, adopted under Chapter VII of the Charter of the United Nations, will be considered.

In the present situation, where there are no direct rules of the internal legislation, the obligation to implement the provisions of the United Nations Security Council resolution 1373 (2001) of 28 September 2001 can be derived directly as resulting from the international treaty ratified by Poland, namely the Charter of the United Nations.

In accordance with the practice developed in Poland, to implement binding decisions of the United Nations Security Council, appropriate decision of the Council of Ministers (Government) is indispensable. The decisions of this kind oblige competent ministers of the Government to take appropriate measures to implement the provisions of the United Nations Security Council resolutions.

In order to comply with the requirements set forth in the UN Security Council resolution 1373 (2001), at the request of the Minister for Foreign Affairs, the Council of Ministers took such a decision on 5 November 2001, and obliged the Ministers for: Economy, Finance, Interior and Justice to:

- take immediately appropriate measures to implement the said resolution, and in particular to:
  a) indicate existing legal mechanisms, which will apply to the implementation of the resolution and
  b) in case of lack of such mechanisms – to propose legal measures, which should be introduced to implement the resolution, including appropriate legislative initiatives;
- inform the Minister for Foreign Affairs on the measures taken.

In the decision of the Council of Ministers the Minister for Foreign Affairs has been authorised to prepare a report and submit it to the Committee of the Security Council established on the basis of paragraph 6 of the Security Council resolution 1373 (2001). At the same time the Minister for Foreign Affairs has been designated as the focal point and coordinating authority with respect to issues concerning the implementation of the said resolution.

Operative Paragraph 1

Sub-paragraph (a) *– What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?*

The suppression of financing of terrorist acts can be ensured effectively by Poland on the basis of the existing legislation. The key provisions to this end are included in the law of 16 November 2000 on counteracting to the introduction to financial transactions of property values originated from illegal or unclear sources. This law determines the scope of "responsible institutions" (i.e. banks, other financial institutions and entities, and entities engaged in activities connected with financial means and assets), obligation of registration of transactions and identification of clients, requirements concerning exchange of information on the transactions and offences, authorities competent to prevent illegal activities with financial means, conditions for blockage of transactions and monitoring of the activity. Additionally, the provisions of the Penal Treasury Code, Article 299 of the Penal Code ("money laundering") and Article 106 of the law of 29 August 1997 – Banking Law may be relevant to this case.

Poland signed on 4 October 2001 the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999. The process of ratification has been initiated.

After the terrorist attacks against the United States the Office for Organised Crime with the National Prosecutor's Office intensified cooperation with the police, State Protection Service and General Inspector for Financial Information in order to detect and prosecute cases of criminal flow of financial means belonging to entities, which may be connected with terrorist acts.

The prosecutor's offices in Poland have reviewed several cases in light of possible signals of behaviour connected with terrorism. The specific cases, where such signals appeared are under the custody of the National Prosecutor's Office. Any additional and detailed information may be provided at the request of the Committee. Due to the nature of the said cases this information should be kept confidential.

In addition to the measures referred to above, the employees of institutions responsible for prosecuting money laundering were engaged in training organised by General Inspector for Financial Information, within his competence.

Sub-paragraph (b) *– What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?*

There is no specific provision in the Polish legislation criminalising directly the wilful provision or collection by any means, directly or indirectly, of funds by Polish nationals with the intention that the funds could be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. However, such an activity can be regarded by courts as an accessory to terrorist acts. Accordingly the penalty for such an assistance will depend on the type of crime of terrorist nature.

Sub-paragraph (c) *– What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.*

Taking into account the legislation in force immediate freezing of funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts and of other entities referred to in this subparagraph of the resolution is not possible.

Therefore the Minister for Finance has initiated legislative action to amend the law of 16 November 2000 on counteracting to the introduction to financial transactions of property values originated from illegal or unclear sources, which authorises the General Inspector for Financial Information to request effectively the blockage of suspicious transactions. Similar solution will be applied to the requirement of immediate freezing of funds and other means referred to in this subparagraph. When amending the said law, the review of several other laws, which regulate functioning of financial institutions in Poland, would be also necessary.

Works on the amendment are complex and comprehensive and will cover: the definition of terrorism and terrorist organisation in Polish legal system, determination whether freezing of financial means would be made at the request of "responsible institution", referred to in the law of 16 November 2000, other entities or *ex officio*, principles of civil liability and penal responsibility, determination of foreign entities, which may request General Inspector for Financial Information to initiate the procedure of blockage of means on the account, etc. A group of experts of the Ministry of Finance, Ministry of Foreign Affairs and State Protection Service will be established soon to examine draft amendments to the existing laws. In case of "anti-terrorist laws" the application of urgent legislative procedure is being considered.

Until the adoption of the amendment referred to above such actions can be carried out on the basis of Penal Proceedings Code by Prosecutor's offices or State Protection Service within their statutory obligations. Such actions have been taken and relevant general information is provided in the response to Subparagraph (a) above.

Sub-paragraph (d) *– What measures exist to prohibit the activities listed in this sub-paragraph?*

To this issue the same rules, procedures and measures referred to in the response to Subparagraph (a), (b) and (c) shall apply.

Operative Paragraph 2

Sub-paragraph (a) *– What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help to prevent such activities?*

(i) In this case the key provision is contained in Article 258 of the Penal Code (see appendix I).

(ii) To this issue the mechanisms and procedures of control of trade in strategic goods, technologies and services relevant to national security, as well as to the maintenance of international peace and security, are applicable. Detailed information as well as translation of Law of 22 June 2001 on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction and Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws are attached to the present report as appendices II, III and IV.

Sub-paragraph (b) *– What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?*

Under the Law of 6 April 1990 on the State Protection Service, the Chief of this Service is the authority responsible for the prevention and detection of terrorist acts and other crimes against national security as well as for the prevention and detection of crimes with international dimension, including illicit production, possession and trade in arms, munitions and explosive materials, drugs and psychotropic substances or nuclear and radioactive materials and for the prosecution of the perpetrators of such crimes. After terrorist attacks against the United States on 11 September 2001, preventive actions carried out by State Protection Service and the police have been intensified.

Regarding early warning mechanisms to allow the exchange of information with other States, Poland can implement this obligation of the resolution through multilateral and bilateral international agreements within the field of combating organised crime. Poland has concluded 30 such agreements, and another 11 are negotiated. Full list of the said agreements is attached to this Report as appendix V. To these mechanisms bilateral agreements on the exchange of classified information shall also apply. The cooperation of the police and other services with their counterparts in other States and with international organisations, including Interpol, is of great importance here.

On 3 October 2001 the Agreement between the Government of the Republic of Poland and European Police Bureau "EUROPOL" on the cooperation in combating crime was signed. When ratified the Agreement will constitute an important legal measure in the field of combating terrorism, hence on the basis of Article 2 par. 1 of the EUROPOL Convention, one of major goals of that organisation is to "improve and strengthen effectiveness of actions and support for institutions responsible in the European Union for the prevention and suppression of terrorism". The legislative process related to the ratification of this Agreement will be initiated upon the submission by the EUROPOL Director of the information on the consent of the European Council to the implementation of the Agreement.

Poland attributes great importance to the exchange of information among its Allies in NATO on threat warnings and intelligence assessments, concepts, structures, equipment, training and exercising of military forces designed to combat terrorist threats and on other measures that could improve Alliance's defence posture against such threats.

Sub-paragraph (c) *– What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.*

This is regulated by the law of 25 June 1997 on aliens. Article 13 par. 1 (4) of that law stipulates that an alien may be refused visa or entry in the territory of the Republic of Poland if there is reasonable suspicion that the alien engages in terrorist activity, participates in such an activity, organises it or is member of a terrorist

organisation. Additionally Article 13 par. 1 (5) stipulates that an alien may be also refused visa and entry if there is a reasonable suspicion that he carries across the border, without required permission, arms, munitions, explosive materials, radioactive materials or drugs or psychotropic substances, participates in such an activity, organises it or is a member of an organisation engaged in such an activity.

An alien may also be denied entry to Poland if his entry or stay is undesired due to the obligations resulting from the provisions of ratified international treaties to which Poland is a party (par. 1 (8)) or if he is undesired due to other threat to national security and defence or due to the need to protect public order.

The Chairman of the Office for Repatriation and Aliens is, on the basis of the said law, the competent authority to maintain the list of undesired persons. The list, which is updated on a regular basis, is transferred to diplomatic missions and consular offices of Poland abroad. Every visa application is verified with the list and undesired persons will be denied visa or permit for entry. The cooperation between competent authorities ensures strict implementation of requirements of the resolution in this matter.

For the same reasons, on the basis of Article 52 par. 1 4) the alien may be expelled from the territory of Poland, on the basis of administrative decision issued by the competent authority.

No need for specific action in this respect has arisen.

Sub-paragraph (d) *– What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.*

In this case the same provision of the Penal Code shall be applicable as in relation with the response to Paragraph 2 (a), namely Article 258 (Chapter XXXII - Crimes against public order).

No need for specific action in this respect has arisen.

Sub-paragraph (e) *– What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.*

Although there is no definition in the Polish law of "terrorism", the Penal Code of the Republic of Poland criminalises in several instances the behaviour possessing character of terrorist acts. Each action of such a character is prohibited by law, and sanctions reflecting the seriousness of such acts are envisaged. That legal framework existed before the adoption of resolution 1373 (2001) and it met the requirements resulting from international obligations of Poland, including European Convention on suppression of terrorism. The quotation of respective provisions of the Code is attached as appendix I.

A special commission has been established by the President of the Republic of Poland to elaborate amendments to the Penal Code, which purpose is, *inter alia*, to introduce more severe sanctions for the following acts similar to terrorist acts: assault against an unit of Armed Forces of the Republic of Poland (Article 140), causing of event posing threat to life or health of many persons or to property at large scale (Article 163), causing danger for life or health of many persons or to property at large scale (Article 165), illegal manufacturing, possession or trade in explosive materials or radioactive materials (Article 171), causing damages to environment, causing death to human or serious harm to health of many persons (Article 185), participation and establishment or management of an organised group or association with the view to committing crime or treasury offence (Article 258).

The commission has considered the need to broaden the field of criminalisation, including: preparation for homicide (new wording of § 2 in Article 148), seizure of land public transport mean (Article 166), and exportation of substances harmful to environment (Article 183 § 2).

The commission referred to above has concluded its works and draft amendments to the Penal Code will be considered by the Parliament soon.

No cases have been examined before the courts up to now.

Sub-paragraph (f) *– What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.*

The provisions on the legal assistance are contained in the Penal Proceedings Code. The said procedures and mechanisms are also provided for in the international agreements referred to in the response to Paragraph 2 (b), as well as in the international conventions and agreements on legal assistance in criminal matters.

Sub-paragraph (g) *– How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?*

The same restrictions will apply as those referred to in response to Sub-paragraph (c) above. After the terrorist attacks of 11 September border control effected by the Border Guard, in cooperation with other authorities, has been tightened.

Requirements concerning the procedure of issuance, specimen and protection against forgery of identity papers and travel documents are contained in several specific provisions, i.e. the law of 25 June 1997 on aliens, the Ordinance of the Council of Ministers of 21 November 2000 on the specimen of identity card and procedure of issuance of identity cards, their exchange, return or loss, the Ordinance of the Minister for Interior and Administration of 10 March 1999 on the specimen and procedure for issuance of passports, documents required to obtain passports, as well as procedure of officials of Border Guard in case of the detection during border control of defects in passports, the Ordinance of the Minister for Interior and Administration of 27 June 2001 in specific principles, procedure and specimen of documents in alien-related issues.

These requirements and sophisticated security measures (including modern equipment obtained from the European Union) ensure effective prevention of movement of terrorists through the border and forgery of identity papers and travel documents.

Operative Paragraph 3

Sub-paragraph (a) *– What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?*

The exchange of operational information is carried out on the basis of the international agreements referred to in the response to Paragraph 2 (b), as well as the international conventions and agreements on legal assistance in criminal matters. This exchange of information is also ensured through direct channels of international cooperation between the police and other competent authorities.

Sub-paragraph (b) *– What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?*

The exchange of information and cooperation regarding areas indicated in this subparagraph of the resolution is carried out on the basis of the international agreements referred to in the response to Paragraph 2 (b). This exchange of information is also ensured through direct channels of international cooperation between the police and other competent authorities.

Sub-paragraph (c) *– What steps have been taken to cooperate in the areas indicated in this sub-paragraph?*

Responding to the terrorist attacks of 11 September 2001 the North Atlantic Council considered them as armed attack not just on one ally, but on all States Parties to the Washington Treaty. Therefore, for the first time, Article 5 of the Treaty was invoked. Accordingly Poland decided to support the ongoing US-led military operations against the terrorists and joined the international efforts, undertaken by the Anti-Terrorist Coalition.

In accordance with Article 51 of the Charter of the United Nations, the President of the Republic of Poland took, within his constitutional powers, decision to engage the Polish military assets in Afghanistan within these international efforts.

The said decision was taken in the exercise of the inherent right of the Republic of Poland of individual and collective self-defence enshrined in Article 51 of the Charter and confirmed in the Security Council resolutions

1368 (2001) of 12 September 2001 and 1373 (2001) of 28 September 2001, which call all States to work together urgently to bring to justice the perpetrators, organisers and sponsors of these acts of violence.

Additionally Poland has opened its airspace to the aircraft of the United States Armed Forces.

Poland cooperates strongly within NATO in fulfilling the task of protecting its population, territory and forces, in examining the ways to adapt and enhance Alliance military capabilities. This includes consideration of the way in which the Alliance can contribute in the defence field to the struggle against terrorism and proposals for improving the Alliance's preparedness against terrorism involving chemical, biological, radiological or nuclear weapons, and examination of the implications of terrorism for national defence plans in the context of NATO's force planning system.

Sub-paragraph (d) – *What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?*

Poland is not yet party to 4 anti-terrorist conventions and protocol:

1. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997. The Convention was signed by Poland on 14 June 1999. Ratification procedure has been already initiated.

2. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999. The Convention was signed on 4 October 2001 during the 56th session of the UN General Assembly. Ratification procedure has been already initiated.

3. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988. The request for ratification of the Protocol is in the phase of preparation.

4. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991. The request for ratification of the Protocol is in the phase of preparation.

Sub-paragraph (e) – *Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.*

Poland is party to the following anti-terrorist conventions and protocols:

1. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.

2. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.

3. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963.

4. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970.

5. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

6. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980.

7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.

8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.

9. European Convention on the Suppression of Terrorism, concluded at Strasbourg on 27 January 1977.

Poland is strongly committed to implementing fully and effectively the conventions and protocols to which it is party or to which it is in process of becoming party, as well as the previous resolutions of the Security Council, recognising that they constitute important instrument facilitating cooperation in the field of combating terrorism.

Sub-paragraph (f) – *What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status. Please supply of any relevant cases.*

The existing legislation prevents effectively situations when asylum seekers, who may be involved in terrorist activity are granted asylum in Poland.

The right of aliens to asylum in the Republic of Poland is enshrined in Article 56 of the Constitution of 2 April 1997. The principles governing granting asylum are determined in the law of 25 June 1997 on aliens. Article 50 of that law stipulates that an alien may, at the request, obtain asylum in the Republic of Poland, if it is necessary to protect him and if it is justified by important interest of the Republic of Poland. Aliens may be deprived of asylum if the reasons for granting such a status have terminated or they engage in the activity directed against the national defence and national as well as public order.

Sub-paragraph (g) – *What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.*

This issue is regulated in the law on aliens quoted above. Articles 41a and 42 set forth the conditions of refusal to grant refugee status, ensuring thus possible abuse by alleged terrorists. Additionally Article 42 refers to Article 1 A (as to the requirements) and Article 1 F (as to the circumstances) of the Convention on the status of refugees, done at Geneva on 28 July 1951 and Protocol concerning the status of refugees done at New York on 31 January 1967. The said Convention and the Protocol apply directly in the Republic of Poland.

In connection with the requests for extradition Poland is bound by the provisions of the European Convention on Extradition, done at Paris on 13 December 1957 and by the provisions of bilateral agreements.

Appendix I

Penal Code (excerpt):

Chapter XVI
Crimes against peace, humanity and war crimes

Art. 120. A person who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.

Art. 121. § 1. A person who, in contravention of the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use, shall be sentenced to imprisonment for 1 year up to 10 years.

§ 2. The same penalty shall be applicable to a person, who allows the commitment of the act referred to in § 1.

Chapter XVII
Crimes against the Republic of Poland

Art. 134. A person who commits attempt on the life of the President of the Republic of Poland, shall be sentenced to imprisonment for time not shorter than 12 years, for 25 years or for life.

Art. 136. § 1. A person who in the territory of the Republic of Poland commits an active assault against the head of foreign state or accredited chief of diplomatic mission of such a state or person entitled to similar protection in virtue of laws, agreements and generally accepted international custom, shall be sentenced to imprisonment for 3 months up to 5 years.

§ 2. A person who in the territory of the Republic of Poland commits an active assault against a person belonging to the personnel of the diplomatic mission of foreign state or consular official of foreign state, in connection with discharging by him of official functions, shall be sentenced to imprisonment for up to 3 years.

§ 3. The penalty referred to in § 2 shall be applicable to a person, who in the territory of the Republic of Poland publicly insults the person referred to in § 1.

§ 4. A person who in the territory of the Republic of Poland publicly insults the peson referred to in § 2, shall be sentenced to fine, limitation of freedom or imprisonment for up to 1 year.

Chapter XVIII
Crimes against defence

Art. 140. § 1. A person, who with the view to diminishing the defence powers of the Republic of Poland commits violent assault against an unit of the Armed Forces of the Republic of Poland, destroys or damages object or facility with defence significance, shall be sentenced to imprisonment for up to 10 years.

§ 2. If as a result of the act human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 2 up to 12 years.

§ 3. A person who makes preparations to commit crime referred to in § 1, shall be sentenced to imprisonment for up to 3 years.

§ 4. In the case concerning the crime referred to in § 1-3 the court may rule seizure referred to in Article 39 subparagraph 4, also when, the objects do not constitute property of the perpetrator.

Chapter XIX
Crimes against life and health

Art. 148. § 1. A person who kills, shall be sentenced to imprisonment for the time not shorter than 8 years, for 25 years or for life

§ 2. A person who kills:

1) with particular cruelty,
2) in connection with taking a hostage...
3) as a result of motivation that is worthy of particular condemnation,
4) using fire arms or explosive materials,

shall be sentenced to imprisonment for the time not shorter than 12 years, for 25 years or for life.

§ 3. The penalty referred to in § 2 shall be applicable to the person who kills more than one person or was legally convicted before for homicide.

...

Chapter XX
Crimes against public security

Art. 163. § 1. A person who causes event, which poses threat to file or health of many persons or to property at large scale, in form of:

1) fire,
2) destruction of a building, deluge, landslip, slip of rocks or snow,
3) explosion of explosive or flammable materials or other violent release of energy, proliferation of poisonous, toxic or blistering substances,
4) violent release of nuclear energy or release of ionising radiation,

shall be sentenced to imprisonment for 1 year up to 10 years.

§ 2. The perpetrator acting unintentionally, shall be sentenced to imprisonment for 3 months up to 5 years.

§ 3. If as a result of the act referred to in § 1 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 2 up to 12 years.

§ 4. If as a result of the act referred to in § 2 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 6 months up to 8 years.

Art. 164. § 1. A person who causes direct threat of the event referred to in Article 163 § 1, shall be sentenced to imprisonment for 6 months up to 8 years

§ 2. The perpetrator acting unintentionally, shall be sentenced to imprisonment for up to 3 years.

Art. 165. § 1. A person who causes event, which poses threat to file or health of many persons or to property at large scale:

1) causing epidemiological threat or proliferation of contagious disease or epidemic,
2) manufacturing or introducing to trade substances harmful to health, food or other articles of common use or pharmaceutical means which do not meet quality requirements in force,
3) causing damage or immobilisation of facility of public use, in particular of facility supplying with water, light, heat, gas, or facility securing against common danger or used to its elimination,
4) disturbing, hindering or otherwise affecting automatic processing, collecting or transfer of information,
5) acting otherwise in especially dangerous circumstances,

shall be sentenced to imprisonment for 6 months up to 8 years.

§ 2. The perpetrator acting unintentionally, shall be sentenced to imprisonment for up to 3 years.

§ 3. If as a result of the act referred to in § 1 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 2 years up to 12 years.

§ 4. If as a result of the act referred to in § 2 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 6 months up to 8 years.

Art. 166. § 1. A person who uses ruse or violence against a person or threat of direct use of such violence, takes over the control of vessel or aircraft, shall be sentenced to imprisonment for 2 years up to 12 years.

§ 2. A person who, acting in the manner referred to in § 1, causes direct danger for life or health of many persons, shall be sentenced to imprisonment for time not shorter than 3 years.

§ 3. If as a result of the act referred to in § 2 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced to imprisonment for the time not shorter than 5 years or for 25 years.

Art. 167. § 1. A person, who places on vessel or aircraft facility or substance posing threat to safety of persons or property with significant value, shall be sentenced to imprisonment for 3 months up to 5 years.

§ 2. The same penalty shall be applicable to a person who destroys, damages or makes unserviceable navigation instrument or hinders its operation, if it may pose threat to the safety of persons.

Art. 168. A person who makes preparations for the crime referred to in Article 163 § 1, Article 165 § 1, Article 166 § 1 or in Article 167 § 1, shall be sentenced to imprisonment for up to 3 years.

Art. 171. § 1. A person who without required permission or in contravention of its conditions manufactures, processes, collects, possesses, uses or effects trade in explosive substance or instrument, radioactive material, facility releasing ionising radiation or other object or substance that may pose threat to file or health of many persons or property at large scale, shall be sentenced to imprisonment for 6 months up to 8 years.

§ 2. The same penalty shall be applicable to the person, who in contravention of the obligation commits the act referred to in § 1.

§ 3. The same penalty shall be applicable to the person, who transfers the objects referred to in § 1 to non-authorised person.

Art. 172. A person who hinders the action, undertaken with the view to preventing the danger to life or health of many persons or to property at large scale, shall be sentenced to imprisonment for 3 months up to 5 years.

Chapter XXI
Crimes against safety of transportation

Art. 173. § 1. A person who causes disaster in road, water or air transport posing threat to life or health of many persons or to property at large scale, shall be sentenced to imprisonment for one year up to 10 years.

§ 2. The perpetrator acting unintentionally, shall be sentenced to imprisonment for 3 months up to 5 years.

§ 3. If as a result of the act referred to in § 1 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 2 years up to 12 years.

§ 4. If as a result of the act referred to in § 2 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 6 months up to 8 years.

Art. 174. § 1. A person who causes direct danger of disaster in road, water or air transport shall be sentenced to imprisonment for 6 months up to 8 years.

§ 2. The perpetrator acting unintentionally, shall be sentenced to imprisonment for up to 3 years.

Art. 175. A person who makes preparations for the crime referred to in Article 173 § 1, shall be sentenced to imprisonment for up to 3 years.

Chapter XXXII
Crimes against public order

Art. 258. § 1. A person who participates in organised group or association, which aim is to commit crimes shall be sentenced to imprisonment for up to 3 years.

§ 2. If the group or association referred to in § 1 is of military nature the perpetrator shall be sentenced to imprisonment for 3 months up to 5 years.

§ 3. A person who establishes the group or association referred to in § 1 or 2 or manages such a group or association shall be sentenced to imprisonment from 6 months up to 8 years.

Appendix II

MINISTRY OF ECONOMY

INFORMATION

concerning the control of external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security

1. Introduction

Poland belongs to a majority of states which have set their plans for economic growth on the foundation of external trade.

However, the growing volume of international trade exchange fuels fears of strategically sensitive goods, dual-use technologies, arms and military equipment falling into the wrong hands. Which highlights the need for continuous, meticulous and efficient control of the flow of trade with foreign countries.

There are a host of reasons why so many states exercise control of their external trade in strategic goods and technologies, prominent among them being:

- national security, delivered by preventing proliferation of mass destruction weapons,
- pursuit of long-term international policy objectives,
- the need to keep international obligations,
- ensuring national enterprises' access to state-of-the-art technologies.

This also explains why so many international firms have decided to put in place their own internal control systems.

An expanding, external trade-led Polish economy rules out the prospect of each and every transaction being administered by the government. This would trigger the growth of procedures and mechanisms which would effectively strait-jacket the control system. This, in turn, would slow down, or even impose constraints upon, economic growth.

It is certainly much easier to strike a balance between the interests of the state and those of company operators when the latter can understand with crystal clarity the significance of both foreign trade control and the rules governing it.

That is why in modifying the export control system which had existed till the end of 2000, the Ministry of Economy has applied its guiding principle whereby enterprise owners' freedom to go ahead with their external trade contracts is contingent upon their obligation to deploy their own internal control systems.

It goes without saying that it is the manufacturers of and dealers in goods and technologies involved in external trade that have the most extensive knowledge of their application and potential users. Which is another reason why Polish firms are so important players in the country's external trade control system, their respective in-house control systems being crucial in preventing transfers of strategically sensitive goods to wrong users.

An in-house control system is also in the interest of the Polish business community, because:

- it safeguards a Polish firm against an inadvertent failure to comply with the regulations which would render it liable to economic sanctions and a fine,
- it can be a circumstance encouraging a lenient treatment of a Polish company (and its board) should it be found in breach of export control regulations,
- its absence can affect business contacts with foreign entities, should the latter insist on adherence to trade control principles.

The system being proposed to Polish company operators is fully consistent with international standards, is structured in keeping therewith and uses the identical terminology.

The concept of internal control system has been prompted by cooperation of the business community and government institutions aimed at preventing stockpiling of arms and dual-use goods and technologies which could pose a threat to international peace and security.

The deployment in a Polish firm of an in-house control system is as important for the firm concerned as it is for the whole country.

In Poland, the control of external trade in strategic goods is regulated by the 29 November 2000 Law on external trade in goods, technologies and services of strategic importance for state security, as well as for international peace and security.

2. Application of international solutions relevant to control of trade in dual-use goods and technologies, as well as arms

More than 30 of the world's most advanced nations are parties to the international system of control of trade in arms, as well as dual-use goods and technologies, hammered out by international non-proliferation organisations and control regimes.

Poland is a member of all non-proliferation organisations and groupings and has ratified all relevant international conventions and treaties.

We cooperate with parties to the said agreements and regimes with the aim of furthering regional and international security and stability through enhanced transparency and responsibility in handling transfers of conventional weapons and dual-use goods and technologies.

The said cooperation is focused primarily on:

- countering the growth of the military capabilities of states posing a threat to international security,
- blocking the proliferation of mass-destruction and conventional weapons, as well as technologies serving development of both,
- imposing constraints on trade prejudicial to certain institutions and organisations based in countries covered by total or partial embargoes of the United Nations Organisation and the European Union,
- bringing to a halt trade exchange with states fighting wars and supporting international terrorism,
- pursuit of joint operations targeting recognised or suspected terrorist organisations.

Poland's membership of NATO today, and of the European Union in the near future, has prompted modifications of legal regulations, mechanisms and procedures relevant to its external trade in armaments and military equipment, as well as dual-use goods and technologies.

On 1 January 2001 a law came into force regulating the country's external trade in goods, technologies and services of strategic consequence for its security, as well as for the keeping of international peace and security.

The law incorporates mechanisms ensuring implementation of the European Union Code of Conduct in Arms Export which in June 1998 won approval from the EU's General Affairs Council.

The assumption behind the new legal regulations is that - like in EU member states and NATO - the control in Poland of external trade in arms and dual-use goods is the resultant of business people interacting very closely with the government administration. The idea of Poland's external trade control system is underpinned by the concept of industrial enterprises, trade companies and research and development centres running their own, in-house control systems. Control on the ground must be organised by Polish manufacturers, exporters, users, research and development centres, etc., manufacturing, using and exporting dual-use goods and technologies, military equipment and armaments subject to international control. Control must also be exercised by brokers, dispatchers, hauliers, operators of cargo-handling plants and trade consultants on their own turf.

The track-record of mature trade control systems highlights both the motivation of manufacturers or exporters willing to succumb to control procedures, and the two-way flow of information which between them pave the way to confidence and cooperation between the government administration, business people and scientists. The aim of such cooperation is to deploy control mechanisms and procedures which - adding up to a

control system meeting international standards - will not constrain the Polish business people's operating freedom above the necessary minimum, and will not put them at a disadvantage vis-a-vis their foreign partners.

It has become necessary for Poland to embrace NATO and EU rules governing control of trade in dual-use commodities and technologies, because external trade control is moving away from being an internal affair of individual states, and towards becoming the principal common foreign policy pillar upholding international peace and the security of both NATO and EU member states.

3. Regulations enshrined in Polish law

The law regulating Poland's external trade in goods, technologies and services of strategic consequence for its security, as well as for the keeping of international peace and security, encapsulates experience accumulated by Poland over the years. It also incorporates some earlier legal regulations which have been applied with positive results. These include procedures governing the issuance of licences, their withdrawal and change, the institution of international import certificate, delivery verification certificate, the end user's statement and turnover control. Due attention has further been given therein to key elements of external trade control in dual-use goods and technologies, as well as armaments, applied across European Union member states and NATO. In sum, the law:

- introduces general and global licences covering export, import or transit of goods or technologies subject to control,
- extends control to commodities which do not figure on control lists if there is no certainty about their end use,
- ushers in control of trade in "elusive" technologies, i.e. which can be transmitted by way of computers, fax machines and telephones, or conveyed during training courses,
- makes possible involvement of a company in the exercise of control of external trade in strategic goods,
- lays the groundwork for development of partnership and cooperation of business operators with government administration.

The law says that the ban on external trade in strategic goods and services remains in force unless a business operator has complied with all the terms and restrictions laid down in the said law, in other laws, as well as international agreements and arrangements. In other words, an export, import or transit licence, or one covering services issued by the Ministry of Economy is a privilege bestowed on a business owner who has complied with all the relevant terms and conditions established by law and laid down in international agreements and arrangements. Such a privilege – which takes the form of a licence – can be withdrawn or changed, or else, the enterprise owner may be denied it at all.

The new, modified concept of external trade control draws its strength from internal control and turnover management systems existing in each and every enterprise trading in strategic goods. Mechanisms ensuring correct order delivery-related decision-making and suitable verification thereof, are vital components of such systems.

4. Export control

Pursuant to the aforesaid law, the Ministry of Economy demands that a Polish business owner submit an end-user's international import certificate or end statement, confirmed by the relevant government authorities of a foreign importer.

The end-user's statement is issued by a foreign end-user, and its contents must meet the requirements of the Ministry of Economy. This statement, too, has to bear a confirmation of both a foreign importer and the authorities of a country of destination.

The document in question is used in all export transactions with the aim of transferring responsibility on to foreign trading partners and their authorities, as well as safeguarding goods against being forwarded to unauthorised destinations.

The statement shall:
- name the country of destination,
- furnish the name and address of the end user,
- give a description of the strategic commodity, its quantity and value,

- name intermediate recipients and buyers,
- contain an undertaking not to pass the strategic commodity in question on to any other recipient without a prior consent of Polish trade control agencies. It should further contain an undertaking to the effect that a foreign end-user and importer shall not:
- re-export,
- sell,
- lend to any entity,
- or in any other way dispose of the goods/technologies named in the statement outside the end-user's country, without a prior consent of the Government of the Republic of Poland.

This undertaking also covers spare parts, specialist equipment, documentation and instructions needed for post-sale maintenance and servicing.

The undertakings to be entered at the Ministry of Economy's request into an end-user's statement, a foreign importer's statement and a confirmation issued by the government administration of an end-user's country, allow to cede all responsibility to foreign authorities and reduce to a minimum the danger of a shipment of goods ending up at the address of an unauthorised user.

5. Import control

The Ministry of the Economy can, pursuant to the 29 November 2000 law, issue an import certificate, or confirm the statement of an end user, only when the authorities of a foreign importer's country so require.

The law further stipulates that the international import certificate and the end-user's statement are documents meant to be submitted to the appropriate authorities beyond Poland's borders. They testify to the Polish importer's credibility and to his being subject to the relevant agencies' control of his transactions involving import to Poland of strategic goods. The Ministry of Economy can refuse to issue an import certificate or deny a confirmation to an end-user's statement if it cannot obtain a confirmation of control being exercised over imports to Poland, or there is no guarantee that trade in strategic goods will be conducted in keeping with the provisions of the law.

6. Control of trade in goods which do not figure on control lists

Polish legal regulations make a business operator duty-bound to apply for an export licence, or a licence to broker exports of goods not entered in the lists of strategic goods, but the handling of which requires a licence, if he knows or has a legitimate reason to surmise that:

- the goods or services he is about to export can be utilised – in toto or partly – for breaking or suppressing human rights and basic freedoms,
- his delivery of goods will pose a threat to peace or will in some other way contribute to upsetting the stability of the region,
- the final-destination country supports terrorism, makes it easier for terrorists to operate or encourages terrorism or international crime,
- the goods he is about to export can be used in a manner other than to meet the receiving nation's legitimate defence and security-related needs.

7. Transit control

Under the above-mentioned law, the transiting of a dual-use commodity which has originated in a foreign country requires a licence. The latter is issued by the director of a border customs office at the request of a haulier.

Licences for indirect transit are issued by the Ministry of Economy. Indirect transit consists in transport of armaments and dual-use goods and technologies across the Polish customs area, as well as transshipment thereof, say, in a seaport.

Export, import or transit of strategic goods must be handled solely by specially designated customs offices.

8. Issuance of licences

Administrative decisions preceding the licencing of external trade in strategic goods are also elements of control. Licences are issued by the Ministry of Economy and cover:

- export, import and transit of dual application goods and technologies, as well as arms and military equipment,
- gifts, lending and leasing of the said goods,
- dispatching, transport and loading services,
- brokerage, trade consulting and assistance in concluding contracts involving trade in strategic goods.

At present, only individual licences are issued for export, import and transit of arms and military equipment, or services associated therewith. They name a commodity or a service associated therewith and the country with which an operator is thus allowed to trade.

Under the 29 November 2000 law, after three years the Ministry of Economy will also start issuing:

- general licences, covering a type or category of dual-use goods and indicating one or more countries a licence holder is thereby allowed to trade with,
- global licences, covering a type or a category of dual-use goods, without actually naming countries that can be traded with in the said goods.

Apart from the aforesaid licences, the Ministry of Economy also issues international import certificates and approve end-users' statements.

9. Other government institutions involved in control and licencing processes

The Ministry of Economy issues an individual licence after seeking an opinion on the matter of the relevant institution and becoming satisfied that the applicant has met all the conditions laid down in the law of the land.

Under the 29 November law, institutions authorised to deliver opinions are:

- the Minister of Foreign Affairs,
- the Minister of National Defence,
- the Finance Minister,
- the Minister of Internal Affairs,
- the Head of the State Protection Office,
- the President of the State Agency for Nuclear Research,
- the President of the Main Customs Office,
- the General Customs Inspector.

No licence can be issued without opinions given by the above institutions.

10. Licences denied, revoked and altered

The Ministry of Economy refuses, on the strength of an administrative decision, to issue an export, import or transit licence, or one covering the services associated with the trade in question, if:

- the pursuit of such trade would be in breach of obligations assumed by the Republic of Poland under international agreements,
- the issuance of the licence would prejudice the interests of the foreign policy of the Republic of Poland,
- such a decision is called for by national defence or security-related considerations,

- such a decision is called for by important economic interests of the Republic of Poland,
- the applicant enterprise owner does not make any warranty as to the lawful conduct of his operations.

The Ministry of Economy refuses to licence trade in strategic goods if it suspects that all or part of the latter can be utilised illegally, or in a manner prejudicial to the interests of the Republic of Poland, for implementation, production, exploitation, operation, maintenance, storage, detection, identification or proliferation of mass destruction weapons, notably of chemical, biological or nuclear weapons, as well as for the implementation, production, maintenance and storage of delivery systems for such weapons.

The Ministry can deny a licence to anyone if it fears:

- there is a risk the end use or destination of strategic goods can be changed,
- the applicant business operator has been in breach of regulations governing trade in strategic goods.

Having heard the opinions of the aforesaid institutions, the Ministry of Economy can at any time, on the strength of an administrative decision, revoke or alter a licence already issued to an individual operator if at least one of the circumstances mentioned above has come into play, or the operator acts in contravention of the terms laid down in the licence.

11. Control lists

The currently binding list of strategic goods was adopted in July 2001. It was published as an annexe to a decree of the Minister of Economy. It replaced the previous one of August 1998.

The list features arms and military equipment, as well as dual-use goods and technologies subject to external trade control.

The Polish control lists (the list of dual-use goods and technologies and the armaments list) are faithful translations of EU control lists, their contents strictly adhering to the catalogue of items controlled within the European Union.

12. The internal control system

Pursuant to the 29 November 2000 law, before he files an application for an individual licence, the enterprise owner is under the obligation to check whether:
- the end-user intends to use the armaments for breaking or suppressing human rights and fundamental freedoms,
- the arms he is about to deliver will raise a threat to peace or in some other way will contribute to upsetting the region's stability,
- the country of ultimate destination supports, facilitates or encourages terrorism or international crime,
- the arms to be exported can be used for a purpose other than meeting the legitimate defence and security-related needs of the receiving state.

To comply with the above requirements, the contractor is duty-bound to create and apply an in-house system of control and management of trade in strategic goods to help him run each and every transaction, with properties peculiar thereto and obligatory legal regulations duly observed.

Seen from the perspective of management, an in-house control system is an instrument safeguarding a company against actions incompatible with national trade control requirements and relevant international arrangements.

Fitted with their own, internal control systems, Polish firms will be able to protect both their commercial interests and their respective images internationally.

In September 2001 the Ministry of Economy supplied the business community involved in external trade in strategic goods with a programme on CDs containing information needed for the deployment of in-house control systems. The programme is consistent with the norms of the ISO 9000 series and additional requirements

approved of by the Ministry. It features the following elements of an in-house control system to be incorporated by the recipients of the CDs in their respective systems:

- a corporate policy statement,
- personnel selection,
- data storage,
- training,
- order realisation procedures,
- notification,
- analysis of the rejected applications list,
- product classification,
- analysis of risks raised by product destination change,
- in-house control,
- system certification.

The Ministry has launched training sessions for companies in programme application and in-house control systems.

13. Monitoring and control of firms involved in external trade in strategic goods

In May 2001 the Ministry of Economy received from the Government of the United States a gift of the TRACKER system, consisting of computer equipment, complete with a programme imparting automation to licencing procedures. The system is applicable to external trade in goods, technologies and services of strategic importance for state security. It is also used for the maintenance of international peace and security. It can:

- store and process a much larger volume of data,
- run an automatic archive of both the consecutive phases of consultation and opinions given,
- analyse in-depth both decision-making processes and information pertaining to goods, technologies, services, applicants and other parties to a contract,
- prepare export, import, transit and service licences,
- prepare certificates,
- impart greater efficiency to export, import and transit control.

The TRACKER system definitely improves the efficiency of the decision-making process, the latter requiring, among other things:

- that several control lists of goods and technologies be used, and that diverse modes of conduct worked out within the respective frameworks of four different international non-proliferation agreements be taken into account,
- adherence to the decisions of international organisations imposing constraints on trade with certain countries,
- that decisions taken in previous periods be appealed against; that applications for licences by domestic firms be filed with due account being taken of several moths needed for the process of licence-issuing to be completed; and that import certificates and end-user statements be correlated with export licences,
- that risk data bases, created both in reliance on in-house and domestic, as well as external information be consulted,
- that agreements with other countries banning re-exportation of imported goods and spare parts do definite countries be duly taken into account,
- that exchange of information gets off the ground between internal organisational units and the Ministry of Economy and interested government offices and agencies.

14. Control of the business community

The TRACKER system further makes possible building a data-base of companies which act in defiance of the law of the land or are in need of improving their knowledge thereof. Information stored in the system comes in handy when companies involved in external trade in strategic goods are being controlled.

The controllers, in particular, look into:

- a company's records for any inconsistency with its trading licence; they verify a transaction after its completion,
- the operation of an in-house control system,
- the way a company keeps its records of trade in strategic goods.

The Ministry of Economy is in charge of the said controls with experts from relevant government offices and agencies taking part.

In the event an irregularity is uncovered in his external trade in strategic goods, the Ministry of Economy summons the business owner responsible to re-embrace the rules within one month from the delivery of the summons. When this fails to produce the expected results, the Ministry of Economy revokes his licence by administrative decision.

In the case of a global and/or general licence, the Ministry of Economy issues an administrative decision forbidding a businessman to use the licence and advising of its decision the opinion-giving institutions.

The businessman stands a chance of being issued another licence but no sooner than in 3 years after the withdrawal of the former licence has become final.

15. Offences punishable with imprisonment and fines

Under the 29 November 2000 law on external trade in goods, technologies and services of strategic importance for the security of the state, and also for international peace and security:

- Whoever is involved in unlicenced export, import, transit or services associated therewith, or even unintentionally acts in contravention of the conditions laid down in his licence, is liable to a prison sentence of up to 10 years.
- If a perpetrator has unintentionally conducted trade in contravention of the conditions laid down in his licence, and has re-established his company's conformity with the law, he is liable to a fine, restriction of freedom or imprisonment of up to two years.
- If a sentence has been imposed for the aforesaid offences, the court can order confiscation of the strategic goods or other items used, or meant to be used in committing the offence, or obtained through crime indirectly or directly, such as legal tenders and equities, even if these are not owned by the perpetrator.
- Whoever obstructs control of a company is liable to a fine.
- A business operator involved in trade without a valid licence is fined up to 20,000 zlotys by a trade control institution.
- A business operator who is involved in trade conducted in contravention of the conditions laid down in his licence is fined up to 100,000 zlotys by a trade control institution.

16. Summary

The aforesaid system of control of external trade in goods, technologies and services of strategic importance for the security of the state, and also for international peace and security went into effect on 1 January 2001 and is now in the initial phase of implementation.

Its effectiveness is contingent on full commitment thereto of all those involved in trade. Polish business owners must further understand that their submitting to control mechanisms and procedures, which add up to a control system consistent with international standards, is not tantamount to a surrender of any of their operating freedom, but can in fact turn out to be a *sui generis* privilege.

One can accept that by introducing a control system and imposing restrictions on deliveries of arms, military equipment, as well as goods and technologies which might be used by terrorist organisations for

production of mass destruction weapons, Poland has joined the pursuit by the international community of a common policy to help safeguard international peace and security.

To fully understand the role being played by all those taking part in the control system, the Ministry of Economy has launched a series of training schemes for businessmen. These are being financed from foreign funds which, however, will stop being available in the near future.

The continuation of these and other actions assisting the inclusion of enterprise owners in the control system should be financed from the state budget.

The said training schemes should further be extended to cover university-level schools, research and development institutions and other centres representing advanced degrees of technological accomplishment, as these organisations have at their disposal what is known as "elusive technologies." The transfer of these strategically important technological assets very often takes place in the course of scientific seminars, conferences and training sessions, which is why a degree of self-control should be exercised in the conveyance of such knowledge.

Appendix III

LAW
of 22 June 2001

on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction

(J. of L.[1] No. 76, item 812)

Chapter 1
General provisions

Article 1.

This Law determines the principles of the implementation in the territory of the Republic of Poland of the obligations resulting from the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, done at Paris on 13 January 1993 (J. of L. of 1999, No. 63, item 703), hereinafter referred to as "the Convention".

Article 2.

1. The provisions of this Law shall apply to the natural persons in the territory of the Republic of Poland, legal persons and organisational units without legal personality and other entities with place of business in the territory of the Republic of Poland, as well as foreign entrepreneurs carrying out in the territory of the Republic of Poland the activity with chemicals and their precursors, covered by the Convention.

2. The territory of the Republic of Poland shall also include aircraft and vessels as well as other navigating units, of the Polish nationality.

Article 3.

1. Whenever this Law refers to the "chemical weapons", "toxic chemicals", "discrete organic chemicals", "precursors", "riot control agents", "chemical weapons production facilities" as well as "purposes not prohibited under the Convention", these terms shall have the meaning used by the Convention.

2. The term "escorting team" shall mean "in-country escort" in the meaning of the Convention.

Chapter 2
Prohibitions and restrictions

Article 4.

It is prohibited in the territory of the Republic of Poland, subject to Article 5:
1) development, production, manufacturing, processing, consumption or otherwise acquiring, collecting, stockpiling, sale or transfer to anyone of chemical weapons,
2) use of chemical weapons,
3) engaging in any military preparations to use chemical weapons,
4) use of riot control agents as a method of warfare,
5) abetting or assistance in engaging in the activity prohibited under subparagraphs 1-4 above.

[1] Journal of Laws of the Republic of Poland.

Article 5.

The production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors, mentioned in Schedule 1 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 1", may be carried out only for the purposes not prohibited under the Convention and in the amounts allowed therein and in accordance with its requirements.

Article 6.

1. The production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer of use of toxic chemicals or their precursors mentioned in the Schedule 1 may be carried out on the basis of a permit.

2. The permit referred to in paragraph 1 shall be issued by the minister for economy, subject to paragraph 3.

3. The permits referred to in paragraph 1, for the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as for state-owned enterprises, for which it is founding organ, shall be issued by the Minister for National Defence.

Article 7.

1. The permit for production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors, mentioned in the Schedule 1 is independent of the entry to the record of entrepreneurs as well as of the concession and permission, referred to in the provisions related to the business activity.

2. Granting, refusal to grant, modification and withdrawal of permit or limitation of the scope thereof in relation with the application shall be effected through administrative decision.

3. The permit shall be granted for a limited period of time, not shorter than 2 years and not longer than 50 years.

4. To granting, refusal to grant, modification and withdrawal of permit or limitation of the scope thereof in relation with the application the provisions of Article 16, Article 17 par. 1 and 2, Article 18, Article 20, Article 21 par. 1-5, Article 22, Article 23 and Article 26 of the Law of 19 November 1999 – Law on Business Activity (J.of L. No. 101, item 1178, of 2000, No. 86, item 958, No. 114, item 1193 and of 2001 No. 49, item 509) shall apply accordingly.

Article 8.

The minister for economy shall determine through regulation the procedure of issuing of permits for the production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1. The said regulation shall determine in particular:

1) the specimen of applications to issue permit for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1,
2) documents to be attached to the applications, referred to in subparagraph 1,
3) specimen of permit for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1.

Article 9.

1. The Minister for National Defence shall determine through regulation the scope and detailed conditions of production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1 in the organisational units and cells subjected to or supervised

by it as well as in the state-owned enterprises for which it is founding organ. The regulation shall determined in particular:

1) manner of preparation of the applications for permit to carry out the activity referred to in Article 6 as well as the documents to be attached to the applications,
2) organisational units authorised to produce toxic chemicals or their precursors for protective purposes,
3) conditions of production of toxic chemicals or their precursors for research, medical or pharmaceutical purposes,
4) procedure and periods of transfer of information connected with the production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1,
5) conditions of training of military forces related to the use of toxic chemicals.

2. The Minister for National Defence shall transfer to the minister for economy the copies of the issued permits for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors in the organisational units and cells referred to in par. 1.

Chapter 3
External trade in toxic chemicals and their precursors

Article 10.

1. The importation, exportation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1 is allowed, subject to permission, and furthermore subject to Article 11.

The permission for importation, exportation and transit referred to in par. 1 shall be issued by the minister for economy in accordance with the principles and in the manner determined in the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws (J. of L. No. 119, item 1250).

Article 11.

1. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1, to and from the States, which are not party to the Convention is prohibited.

2. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1, to and from the States - Parties to the Convention is allowed only for the purposes not prohibited under the Convention and in the amounts allowed therein and in accordance with its requirements.

Article 12.

1. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 2 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 2" is allowed only to and from States – Parties to the Convention.

2. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 3 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 3" is allowed only to and from States – Parties to the Convention, subject to par. 3.

3. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors, mentioned in the Schedule 3 from the States – Parties to the Convention is allowed to and from

States, which are not party to the Convention, provided that in case of the exportation and transit to these States, such exportation and transit shall be subject to the delivery of end user declaration, issued by competent authorities of the said States.

The declaration referred to in par. 3 shall contain the data determined in the Article 23 par. 4 of the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws.

Chapter 4
Declarations and their verification

Article 13.

1. The minister for economy shall maintain the national system of collection and processing of data connected with the activity covered by the Convention and shall prepare draft declarations required by the Convention.

2. The minister for economy shall transmit draft declarations referred to in par. 1 to the minister for foreign affairs.

Article 14.

1. The entities and entrepreneurs, referred to in Article 2, carrying out the activity with toxic chemicals and their precursors, covered by the provisions of the Convention shall transmit to the minister for economy, the information on that activity connected with:
   1) production, manufacturing, consumption, processing, acquiring, collecting, storage, sale, transfer and use of chemicals mentioned in the Schedule 1, taking into account the provisions of Part VI of the Annex on implementation and verification to the Convention,
   2) production, consumption, processing or trade in chemicals mentioned in the Schedule 2, taking into account the provisions of Part VII of the Annex on implementation and verification to the Convention,
   3) production or trade in chemicals mentioned in the Schedule 2, taking into account the provisions of Part VIII of the Annex on implementation and verification to the Convention,
   4) production of discrete organic chemicals not mentioned in the Schedule 1, Schedule 2 and Schedule 3, taking into account the provisions of Part IX of the Annex on implementation and verification to the Convention,
   5) external trade in toxic chemicals and their precursors mentioned in the Schedule 1, Schedule 2 and Schedule 3,
   6) possessing of riot control agents.

2. The entities and entrepreneurs referred to in Article 2 shall transmit every year the information referred to in par. 1, within the following periods:
   1) before 30 September – in case of the information, which relates to the activity planned in the following calendar year,
   2) before 28 February – in case of the information, which relates to the activity carried out in the preceding calendar year.

3. The information referred to in par. 1 shall be true, reliable and full as well as shall meet the requirements determined in the Convention.

4. The minister for economy, in consultation with the minister for foreign affairs and Minister for National Defence shall determine through regulation the detailed data, which should be included by the information referred to in par. 1. The regulation shall determine in particular:
   1) the specimen of declarations, which should contain the information on the activity with chemicals and their precursors covered by the provisions of the Convention,

2) procedure and periods of transmission of information for the purposes of the preparation of the declarations.

Article 15.

1. The information referred to in Article 14 par. 1-3 shall be subject to verification.

2. The minister for economy shall be the organ competent for the verification referred to in par. 1, except the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as state-owned enterprises, for which it is founding organ.

3. The verification referred to in par. 1, in the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as in the state-owned enterprises for which it is founding organ, shall be carried out by the Minister for National Defence.

To the verification referred to in par. 1 the provisions of the Law of 28 September 1991 on treasury control (J. of L. of 1999, No. 54, item 572, No. 83, item 931, of 2000 No. 70, item 816, No. 104, item 1103, No. 116, item 1216 as well as of 2001 No. 14, item 143) concerning control proceedings as well as the provisions of Articles 29-31 of the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws, shall apply accordingly.

Chapter 5
Inspection activity

Article 16.

The inspection team, within its tasks determined in the Annex on implementation and verification to the Convention shall be entitled to:

1) enter the premises of each facility in the territory of the Republic of Poland in relation with which:
   a) the information or declaration was submitted in connection with the activity carried out in accordance with Article VI of the Convention,
   b) challenge inspection was requested in accordance with Article IX par. 8 of the Convention,
   c) an investigation has been initiated in accordance with Article X par. 9 of the Convention,
2) carry out other inspection activity, in accordance with the Convention,
3) use equipment authorised in accordance with the Convention, including installation of equipment used for permanent monitoring of the facilities,
4) interview the owner of the controlled facility or his/her representative,
5) review documents and records,
6) take samples for analysis.

Article 17.

1. The inspection team shall be accompanied by escorting team, designated by the minister competent for the controlled facility, in consultation with the minister for foreign affairs.

2. The members of the escorting team shall have the same rights as the members of the inspection team referred to in Article 16.

Article 18.

1. During the inspection the controlled entities and entrepreneurs, referred to in Article 2 above, shall in relation with the inspection team and the escorting team:

1) make available the facilities and plants, in which the activity is carried out with chemicals and their precursors covered by the provisions of the Convention,
2) be present during the inspection,
3) provide with relevant information and facilitate insight into the documents and records within the scope of control,
4) make copies of requested documents and records,
5) take samples or co-operate in taking of samples,
6) facilitate to the inspection team the use of communications services as well as, if possible, other equipment in the controlled facility,
7) ensure appropriate working conditions, including individual premises and places for storage of documents.

2. During the inspection the provisions of Article 17 par. 2, 3 and 5 of the Law of 28. September 1991 on treasury control shall apply accordingly.

Article 19.

During the inspection the controlled entities and entrepreneurs, referred to in Article 2 above shall be entitled to:
1) participate in the works of the escorting team,
2) submit explanations and formulate reservations during the inspections,
3) be acquainted with findings of the inspection and collected documentation,
4) receive the report of the inspection and formulate observations thereto,
5) participate in de-briefing meetings of the inspection and formulate observations.

Article 20.

1. The costs connected with the inspection shall be borne from the funds of the state budget, which shall be planned by appropriate ministers regarding their respective parts of the budget.

2. The ministers competent for the inspections shall submit to the minister for foreign affairs the application for the compensation of the incurred costs, which shall be transmitted to the Organisation for the Prohibition of Chemical Weapons, hereinafter referred to as "the Organisation".

Article 21.

The Council of Ministers shall determine through regulation the detailed procedure for the receipt of inspections of the Organisation in the territory of the Republic of Poland. The regulation shall determine in particular:
1) procedure of notification on the inspection,
2) composition of the escorting team,
3) obligations of the minister competent for inspected facility, related to:
   a) notification of competent authorities as well as owner of the facility on planned inspection,
   b) preparation of the inspection,
   c) assurance to the inspection team and escorting team of access to the facility covered by the inspection, transportation to and from the inspection site, accommodation, working premises, translations, use of communication services as well as medical care,
   d) assurance that the inspection is carried out in accordance with the procedures set forth in the Convention,
4) manner of coverage of inspection costs as well as procedure of application to the Organisation for the compensation of incurred costs.

Chapter 6
Protection of information

Article 22.

1. The information obtained in connection with the implementation of the Convention, marked with the clause "OPCW restricted" shall be protected and made available in accordance with the principles determined in the law of 22 January 1999 on the protection of secret information (J. of L. No. 11, item 95, of 2000 No. 12, item 136, No. 39, item 162 and of 2001 No. 22, item 247 and No. 27, item 298) related to the secret information marked with the clause "restricted".

2. The information obtained in connection with the implementation of the Convention, marked with the clause "OPCW protected" shall be protected and made available in accordance with the principles determined in the law referred to in par. 1, related to the secret information marked with the clause "confidential".

3. The information obtained in connection with the implementation of the Convention, marked with the clause "OPCW highly protected" shall be protected and made available in accordance with the principles determined in the law referred to in par. 1, related to the secret information marked with the clause "secret".

4. The information obtained from the entities and entrepreneurs, referred to in Article 2 above, in connection with the obligation referred to in Article 14, and marked with appropriate clauses shall be protected and made available in accordance with the principles determined in the law referred to in par. 1, accordingly to the clause attributed to it.

Chapter 7
Competencies of the organs of public administration

Article 23.

1. The functions of the National Authority referred to in the Convention shall be carried out by the minister for foreign affairs.

2. The tasks of the minister for foreign affairs, as National Authority, shall include:
   1) preparation and realisation of the assumptions of the policy of the Republic of Poland in relation with the Organisation,
   2) contacts with the Organisation and with other States – Parties to the Convention within the issues connected with the implementation of its provisions,
   3) co-participation in the receipt of inspections of the Organisation in the territory of the Republic of Poland,
   4) co-ordination of actions undertaken in the territory of the Republic of Poland in connection with the implementation of the obligations resulting from the Convention,
   5) provision to the States – Parties to the Convention, in consultation with the Minister for National Defence, through the Organisation, of assistance in case of threat of use or use against them of chemical weapons, in accordance with the provisions of the Convention.

Article 24.

1. Minister for economy shall supervise the activity connected with the implementation of the provisions of the Convention in the territory of the Republic of Poland.

2. When supervising the activity referred to in par. 1 the minister for economy shall:

1) maintain national system of collection and processing of data resulting from the activity referred to in Articles 5-12, as well as shall prepare draft declarations required by the Convention and shall transmit them to the minister for foreign affairs,
2) monitor the activity of entities and entrepreneurs referred to in Article 2 above, in the sphere of the implementation of the Convention in the Republic of Poland, except the organisational units and cells subjected to the Minister for National Defence and supervised by it as well as state-owned enterprises for which it is founding organ; in particular it shall ensure the monitoring of external trade in toxic chemicals and their precursors, mentioned in the Schedule 1, Schedule 2 and Schedule 3,
3) ensure, in co-operation with the Minister for National Defence the possibility of chemical analyses connected with the implementation of the Convention,
4) carry out, in co-operation with the minister for foreign affairs, Minister for National Defence and minister for interior the activity connected with the preparation, receipt and realisation of inspections of the Organisation in the territory of the Republic of Poland , except the organisational units and cells subjected to the Minister for National Defence and supervised by it as well as state-owned enterprises for which it is founding organ, as well as the organs and organisational units subjected to and supervised by the minister for interior.

Article 25.

1. The Minister for National Defence shall ensure the implementation of the Convention by the organisational units and cells subjected to and supervised by it as well as state-owned enterprises for which it is founding organ, through:
   1) monitoring of the implementation of the Convention,
   2) assurance, in co-operation with the minister for economy, of possibility of chemical analyses connected with the implementation of the Convention,
   3) – in co-operation with the minister for foreign affairs, minister for economy and minister for interior – the activity connected with the preparation, receipt and carrying out of the inspections of the Organisation.

2. The Minister for National Defence may designate, upon request of the minister for foreign affairs, within possessed forces and assets destined for the protection against the chemical weapons, the part thereof in order to provide, through the Organisation, other States – Parties to the Convention, with the assistance in case of threat of use or use against them of chemical weapons.

Article 26.

1. The minister for interior shall monitor the implementation of the Convention in the organs and organisational units subjected to or supervised by it, as well as shall determine the tasks of the said organs and units to this end.

2. The minister for interior shall ensure:
   1) border control of inspection teams in accordance with the principles applied to the members of diplomatic personnel in designated border crossing points,
   2) security to the members of the inspection reams during their stay in the territory of the Republic of Poland and during their transit,
   3) – in co-operation with the minister for foreign affairs and minister for economy – the activity connected with the preparation, receipt and carrying out of inspections of the Organisation in the organisational units subjected to and supervised by it.

Chapter 8
Penal sanctions[2]

Article 27.

A person who uses riot control agents as a method of warfare,
shall be sentenced to imprisonment for 1 year up to 10 years.

Article 28.

1. A person who, without required permit or in contravention of its conditions, for the purposes not prohibited under the Convention, produces, manufactures, processes, acquires, collects, stores, sells, transfers, uses or possesses toxic chemicals or their precursors mentioned in the Schedule 1,
shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.
2. The same penalty shall be applicable to a person who transfers the toxic chemicals or their precursors mentioned in the Schedule 1 to unauthorised person.

Article 29.

A person, who without required permit or in contravention of its conditions, effects external trade in toxic chemicals or their precursors, mentioned in the Schedule 1,
shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.

Article 30.

1. A person who fails to meet the obligation to inform authorised organ or transmits false information on the activity connected with toxic chemicals or their precursors, covered by the Convention,
shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.

2. The perpetrator of the act referred to in par. 1 acting unintentionally,
shall be sentenced to fine, limitation of freedom or imprisonment for up to 1 year.

Article 31.

A person who refuses the access to the inspection team or escorting team to the controlled facility, submits false information to the members of the said teams or otherwise impedes or hinders the inspection,
shall be sentenced to fine, limitation of freedom or imprisonment for up to 3 years.

Article 32.

In case of sentence for the crime determined in Article 27-29 the court may rule the seizure of goods, technologies and other objects used in or destined for the commitment of crime or obtained directly or indirectly

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[2] This Law does not repeat the sanctions contained in the Penal Code of the Republic of Poland, which relate to the weapons of mass destruction. Articles 120 and 121 of the Code state the following:

*"**Art. 120.** A person who uses the weapon of mass destruction prohibited by international law,*
shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.
***Art. 121.** § 1. A person who, in contravention of the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use,*
shall be sentenced to imprisonment for 1 year up to 10 years.
§ 2. The same penalty shall be applicable to a person, who allows the commitment of the act referred to in § 1."

from the crime, including monetary means, securities and currency values, as well as other property benefits, even if not owned by the perpetrator.

Chapter 9
Transitional and final provisions

Article 33.

The entities and entrepreneurs carrying out on the day of the entry into force of this Law the activity without permit, referred to in Article 6 par. 1 may within 30 days as from the entry into force of this Law apply to the competent organ for the issuance of required permit.

Article 34.

This Law shall enter into force after 3 months as from its publication.[3]

[3] The Law entered into force on 26 October 2001.

Appendix IV

LAW
of 29 November 2000

on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws

Chapter 1
General Provisions

Article 1.

This Law regulates the principles governing external trade in strategic goods, technologies and services relevant to the national security, as well as for the maintenance of international peace and security, principles of control and recording of such a trade as well as responsibility for illegal trade in the said goods, technologies and services.

Article 2.

External trade, referred to in Article 3 item 8 shall be prohibited by law, if the conditions and limitations set forth in this Law, provisions of other Laws and international agreements and other international obligations are not met.

Article 3.

The definitions used in the present Law shall have the following meaning:

1) dual use goods – the goods and technology, which may be used both for civilian and military purposes, determined in the list referred to in Article 6 section 2 (1),
2) armaments – weapons, munitions, explosives, products, their parts and technologies determined in the list referred to in Article 6 section 2 (2),
3) strategic goods – dual use goods and armaments,
4) Polish customs area – territory of the Republic of Poland,
5) exportation – activity consisting in the exportation of strategic goods from the Polish customs area, including re-exportation as well as their transfer, particularly by phone, fax and other electronic media,
6) importation – activity consisting in the introduction of strategic goods to the Polish customs area as well as their transfer, particularly by phone, fax and other electronic media,
7) transit – procedure set forth in Article 97 § 1 item 1 and 2 of the Law of 9 January 1997 – Customs Code (Dz.U. No. 23, item 117, No. 64, item 40, No. 121, item 770, No. 157, item 1026, No. 160, item 1084, of 1998, No. 106, item 668, No. 160, item 1063, of 1999, No. 40, item 402, No. 72, item 802, of 2000, No. 22, item 269),
8) trade:
    a) any transfer through the border of the Republic of Poland of strategic goods, caused in particular by exportation, importation, transit or conclusion of leasing, donation, loan, lease contracts, or contribution to a company,
    b) intermediary service, trade consulting, assistance in the conclusion of contracts as well as participation in any form in the activities referred to in subparagraph (a), also abroad,
9) entrepreneur – entrepreneur in the meaning of the provisions of the Law of 11 November 1999 – Business Activity Law (Dz.U. No. 101, item 1178),
10) trade control organ – minister for economy,

11) consulted organs – minister for foreign affairs, Minister for National Defence, minister for internal affairs, Chief of State Protection Office, Chairman of National Customs Office, Chairman of National Atomic Agency as well as National Customs Inspector.

Article 4.

Importation to the Polish customs area, exportation from the Polish customs area as well as transit through the Polish customs area of weapons and munitions by natural persons, for the purposes other than commercial and industrial ones shall be regulated by separate provisions of law.

Article 5.

To the issues not regulated in this Law the provisions of Administrative Proceedings Code shall apply, unless the present Law provides otherwise.

Chapter 2
Permits for trade in strategic goods

Article 6.

1. The trade in strategic goods may be effected only on the basis and in accordance with the scope determined in the permit for exportation, importation or transit, as well as for intermediary services, trade advisory services, assistance in the conclusion of contracts and for participation in any form in the activities referred to in Article 3 item 8 (a), hereinafter referred to as "the permit", subject to article 19 section 1.

2. Minister for economy, in agreement with the minister for foreign affairs and Minister for National Defence, taking into account the view of the Chief of State Protection Office shall determine in a regulation:
   1) the list of dual use goods, for which trade the permit is required,
   2) list of armaments, for which trade the permit is required –
   - taking into account, when preparing the said lists, the appropriate international lists.

3. The Council of Ministers shall determine in a regulation the list of countries, to which the exportation or transit by Polish customs area of strategic goods is prohibited or limited, taking into account:
   1) important interest of the foreign policy of the Republic of Poland,
   2) factors of defence or security of the Republic of Poland,
   3) important economic interest of the Republic of Poland,
   4) obligations of the Republic of Poland resulting from the international agreements, including those related to the non-proliferation and control of strategic goods.

4. The entrepreneur shall apply for permit for exportation or intermediary services in the exportation of goods non mentioned in the lists referred to in section 2, if he knows or he has been informed that the exported goods will or may be used in total or in part for the purposes or in the circumstances referred to in Article 10 section 1.

Article 7.

1. The following permits shall be issued for the trade in dual use goods:
   1) Individual permit – which covers particular dual use good or service concerning the said good as well as the country or countries with which the trade may be carried out by appropriate intermediary,
   2) general permit – which covers the type or category of dual use goods, which may be subject of trade with one or more particular countries,
   3) global permit – which covers the type of category of dual use good, and which may be subject to trade, without determining the country, to which such a trade may be effected.

2. In case of the trade in armaments or rendering of services only individual permits shall be issued.

Article 8.

1. The minister for economy shall issue global and general permits in a regulation.

2. The permits referred to in section 1 may use entrepreneur who evidences the application for the period of at least 3 years of internal control and trade administration system, referred to in article 10 section 2, subject to article 50 section 2, as well as submits to the control organ declaration on the commencement of external trade in strategic goods.

Article 9.

1. Individual permit shall be issued upon the request of entrepreneur.

2. Trade control organ shall be competent for the issuance of individual permits, subject to Article 19 section 1.

3. The application for individual permit shall contain:
   1) identification of the entrepreneur, its registered place of business and address,
   2) number in entrepreneurs' register, referred to in separate provisions,
   3) determination of type and scope of business activity carried out by entrepreneur,
   4) identification of exporter or importer, their registered places of business and addresses,
   5) identification of manufacturer and end user, their registered places of business and addresses,
   6) determination of strategic goods or services, subject to external trade, their description, quantity and value,
   7) information on the manner of use of strategic goods by end user,
   8) determination of final destination country,
   9) declaration stating that entrepreneur will undertake all steps necessary so that the goods referred to in the application reach the end user and that he will inform the foreign importer that the modification of use or end user requires prior consent of Polish trade control organ,
   10) other data determined in the regulation issued on the basis of section 6.

4. The entrepreneur shall attach in particular to the application for individual permit for trade in strategic goods:
   1) declaration that there are no circumstances in the trade referred to in Article 10 section 1,
   2) copy of concession for activity related to the trade in explosives, weapons and munitions as well as products and technologies with military or law enforcement destination, referred to in the separate provisions,
   3) draft agreement concerning the said trade,
   4) copy of certificate referred to in Article 11 section 4,
   5) importation certificate or end user declaration in case of exportation,
   6) other documents, which in the view of the entrepreneur may be relevant to the examination of the case.

5. The document made in foreign language shall be accompanied by its translation into Polish made by sworn translator.

6. Minister for economy shall determine, in a regulation:
   1) other data, which should be contained in the application for individual permits,
   2) specimens of applications for individual permit for exportation, importation and transit of strategic goods, intermediary services, trade consultant services, assistance in the conclusion of contracts, as well as participation in the actions referred to in Article 3 subparagraph 8 (a),
   3) documents other than those mentioned in section 4 that should be attached to the application referred to in section 3,
   4) specimens of individual permits for the trade
   - taking into account the types of goods and forms of the trade.

Article 10.

1. Before the submission of the application for individual permit the entrepreneur shall make sure that:
   1) end user intends to use the armaments to infringe or repressions in the area human rights and fundamental freedoms,
   2) delivery of armaments poses threat to peace or otherwise contributes to the destabilisation in the region,
   3) end destination country supports, facilitates or encourages terrorism or international crime,
   4) armaments may be used for other purpose than for the satisfaction of justified needs of defence and security of receiver's country.

2. For the purpose of the realisation of the obligation referred to in section 1, the entrepreneur shall create and apply internal control and management system related to the strategic goods trade, hereinafter referred to as "internal control system".

3. Should the entrepreneur, having shown the best diligence possible, not be able to find whether there appear circumstances referred to in section 1, it may request from the trade control organ the binding explanation concerning that issue. Trade control organ shall provide the entrepreneur with the said explanation, within 3 months as from the submission of the application. In justified cases that period may be extended to 6 months.

Article 11.

1. Internal control system shall determine in particular the tasks of the enterprise organs, basic tasks for the posts related to the control and management of the trade, manner of co-operation of entrepreneur with governmental administration in this area, principles of staff recruitment, archiving of data, training, internal control, realisation of procurements.

2. Internal control system shall possess the certificate of consistency with requirements of international norms ISO 9000 and principles determined in section 1.

3. Certification referred to in section 2 shall be carried out by the authorised control units, which possess accreditation within the national accreditation system created on the basis of the Law of 28 April 2000 on the system of consistency evaluation, accreditation and and amending certain laws (Dz.U. No. 43, item 489).

4. Certificate of consistency with requirements, referred to in section 1 shall be issued by the units referred to in section 3.

5. Certificate referred to in section 4 shall be valid for 3 years.

6. Within the validity period of the certificate the authorised control units shall carry out at least 5 controls of consistency of functioning of internal control and management system of trade with the requirements referred to in section 1 and 2.

7. Minister for economy, shall determine in a regulation the list of certifying units authorised to carry out the certification and control of control and trade management system, among the accredited units in national accreditation system.

Article 12.

1. Trade control organ, having obtained the view of consulting organs, shall issue individual permit, having found that the requirements required for its issuance have been met.

2. The issuance of individual permit shall be effected through an administrative decision.

3. Consulting organs, when preparing their view, referred to in section 1, shall be entitled to request from the entrepreneur the information facilitating the verification of the data contained in the application for individual permit.

4. Before taking decision concerning individual permit trade control organ:
   1) shall require the entrepreneur to complete, within the specified period of time, the application with lacking certifying documentation, stating that the legal requirements necessary for the trade in strategic goods have been met,
   2) may effect trial verification of information contained in the application.

5. To the control referred to in section 4 (2) the provisions of Art. 29 section 4 and Article 30 section 1 and 2 of the present Law shall apply accordingly.

6. The entrepreneur shall inform trade control organ any alterations concerning the data contained in the application within 14 days as from their creation.

Article 13.

When the entrepreneur knows or has justified basis to suspect that the strategic goods were or may be used in total or in part for the purposes and in the circumstances referred to in Art. 10 section 1, he shall take all the steps necessary to find the factual use of the said goods and inform the trade control organ thereon.

Article 14.

1. Individual permit as well as the rights resulting therefrom shall be inalienable.

2. Individual permit for trade in strategic goods shall be the document significant for the purposes of customs clearance.

3. Original of individual permit shall be attached to customs declaration or application for issuance of customs destination.

4. Issuance of individual permit for exportation or transit as well as for the intermediary services in exportation or transit may be depending on the meeting of additional requirements and conditions determined by the trade control organ, and in particular on the submission by foreign end user of the declaration on the use of strategic goods or submission if international importation certificate.

5. Individual permit shall state the validity term thereof, not longer however than one year.

6. A fee shall be collected for the issuance of individual permit. It shall constitute the income of the state budget.

7. Minister for economy in consultation with the minister for public finances shall determine in a regulation the amount of fees for the issuance of individual permit. The fees shall be determined on the level reflecting costs actually incurred by trade control organ when issuing individual permit.

Article 15.

1. Trade control organ shall refuse, through administrative decision, the trade permit if:
   1) trade is in breach with the obligations of the Republic of Poland resulting from international treaties,
   2) it is required by the important interest of foreign policy of the Republic of Poland,
   3) it is required by factors of defence or security of the Republic of Poland,

4) it is required by important economic interest of the Republic of Poland,
5) entrepreneur does not guarantee that the trade would be carried out in accordance with the legal provisions.

2. Trade control organ shall refuse, through administrative decision, the permit for trade in strategic goods, if the said goods may be in total or in part used for illegal or inconsistent with the interest of the Republic of Poland implementation, production, exploitation, service, maintenance, storage, detection, identification or proliferation of mass destruction weapons and in particular of chemical, biological or nuclear weapons, as well as implementation, production, maintenance, storage of the means able to transfer such weapons.

Article 16.

Trade control organ may refuse, through administrative decision the individual permit if:
1) there is a risk of alteration of end user of destination of strategic goods,
2) the entrepreneur in its hitherto activity infringed the legal regulations concerning the trade in strategic goods.

Article 17.

1. Trade control organ, taking into account the view of consulting organs, may at any time, through administrative decision, withdraw or modify individual permit if:
   1) it is required by important interest of foreign policy of the Republic of Poland,
   2) it is required by the factors of defence and security of the Republic of Poland,
   3) it is required by important economic interest of the Republic of Poland,
   4) it is necessary for the implementation of international treaties to which the Republic of Poland is a party,
   5) there is a risk of alteration of end use or destination of strategic goods,
   6) the entrepreneur carries out the trade in the manner inconsistent with the conditions determined in the permit,
   7) the entrepreneur due to his fault, lost warrant of trade consistent with law.

2. The withdrawal or modification of individual permit caused by the entrepreneur shall be without compensation.

Article 18.

The entrepreneur, whose permit was withdrawn for the reasons, referred to in Art. 17 section 1 (6) may apply once again for the issuance of permit not earlier than after expiration of 3 years as from the day, on which the decision on withdrawal of permit became final.

Article 19.

1. Transit of foreign dual use goods, which transport shall end outside the Polish customs area, requires the permit to be issued by the director of boundary customs office.

2. The permit referred to in section 1 shall be issued on the request of the carrier.

3. Minister for public finances in consultation with the minister for economy shall determine in a regulation the specimen of application referred to in section 2 and specimen of permit for transit of dual use goods.

4. The specimen of application and of permit referred to in section 3 shall contain in particular: the number of exportation license, country of origin of the goods, name of carrier, number of lading bill, name of exporter and its registered address, name of receiver and its registered address, name and full description of the goods or technology, control number, quantity and value, name of border crossing point, through which the goods will be introduced to the Polish customs area, declaration of the carrier that the goods covered by

international control will be transported through the Polish customs area on the basis of exportation license from exporter's country to the indicated receiver in the same condition, in which it was introduced to the Polish customs area.

Article 20.

1. Exportation, importation or transit of strategic goods may be effected in indicated customs offices.

2. Minister for public finances, in consultation with the minister for economy, shall determine in a regulation the customs offices, referred to in section 1, taking into account the assurance of proper control of exportation, importation and transit of strategic goods.

Article 21.

1. There shall be a register, hereinafter referred to as "the register" of granted individual permits and of entrepreneurs, who met the conditions referred to in Article 8 section 2.

2. The register shall be carried out by trade control organ.

3. The entry of individual permit to the register shall be made immediately after it has been granted. The entry of the entrepreneur shall be effected immediately after the submission by him of a declaration referred to in Article 8 section 2.

4. Minister for economy shall determine in a regulation the manner, in which the register is carried out, taking into account in particular the types of granted permits as well as the quantity and value of strategic goods covered by the permit.

Chapter 3
Importation Certificate and end user declaration

Article 22.

1. When it is required by the competent authorities of the country of foreign exporter, trade control organ, upon request of entrepreneur, may issue importation certificate or confirm the end user declaration.

2. To the application for the issuance of importation certificate the provisions of Article 9 section 3-5 shall apply accordingly.

3. Importation certificate as well as end user declaration shall be the documents to be shown to the competent authorities outside the Republic of Poland and shall certify the credibility of the importer and the control by competent organs of the Republic of Poland of transactions related to the importation into the Polish customs area of strategic goods.

4. A fee shall be collected for the issuance of importation certificate as well as the confirmation of end user declaration. It shall constitute the income of the state budget.
5. Minister for economy in consultation with the minister for public finances shall determine in a regulation the amount of fees for the issuance of importation certificate and confirmation of end user declaration. These fees shall be determined on the level reflecting the costs actually incurred by the trade control organ when issuing importation certificate and confirmation of end user declaration.

6. Trade control organ may refuse the importation certificate or refuse to confirm the end user declaration if it is not possible to confirm the facts referred to in section 3, due to the lack of warrant of legal trade in strategic goods or non-application by the entrepreneur of internal control system.

7. Minister for economy shall determine in a regulation specimen of importation certificate.

8. Specimen referred to in section 7 shall contain in particular: name of importer, name of exporter, their registered places of business and addresses, name and description of strategic goods, control number, quantity and value, description of final use of the strategic goods as well as the declaration that the importer:
   1) has pledged itself that it is going to introduce the goods specified in the certificate to the Polish customs area and to inform immediately the trade control organ on any modifications of the contract terms,
   2) has submitted the declaration that he is conscious that the re-exportation, modification of end user or declared final use of the goods require prior consent of the trade control organ,
   3) in consultation with end user has pledged himself to facilitate the control of consistency of use of goods with the conditions of permit to be carried out by trade control organ, with possible participation of the representatives of the authorities of country of exporter and at the place of their use during whole period while they are in the Polish customs area.

Article 23.

1. For the purposes of the exportation of strategic goods, trade control organ shall request from the entrepreneur the submission of importation certificate or end user declaration confirmed by competent authorities of the country of foreign importer.

2. End user declaration shall be issued by foreign end user and shall contain the data required by trade control organ.

3. Declaration referred to in section 2 shall be also confirmed by foreign importer and competent authorities of final destination country.

4. Declaration referred to in section 2 shall contain in particular:
   1) determination of final destination country,
   2) name and address of foreign end user,
   3) determination of strategic goods, its description, quantity and value,
   4) description of final use of strategic goods,
   5) indication of intermediary receivers and purchasers,
   6) obligation not to transfer the strategic goods to any other receiver without prior consent of trade control organ.

Article 24.

1. Entrepreneur who has obtained importation certificate, shall, within 30 days as from the clearance of strategic goods, apply to the director of customs office competent for the registered place of business of end user of the said goods for the issuance of certificate confirming that the goods covered by the said certificate have been actually and in the manner consistent with the legal regulations introduced to the Polish customs area. It shall be hereinafter referred to as "delivery verification certificate".

2. To the issuance of delivery verification certificate the provisions of Chapter VII of Administrative Proceedings Code shall apply accordingly.

3. The entrepreneur shall cover the costs incurred by customs office during the proceedings leading to the issuance of delivery verification certificate.

4. Minister for economy, taking into account the view of the Chairman of National Customs Office shall determine in a regulation the specimen of delivery verification certificate and manner of registration of issued certificates.

5. Specimen of delivery verification certificate shall contain in particular: name of importer, name of exporter, their registered places of business and addresses, name and description of goods or technology, control number, quantity and value, description of end use of the goods or technology, SAD number, number of bill of lading, bill of consignment or other document confirming the importation of goods or technologies and confirmation that the importer has submitted credible evidence confirming the delivery and introduced the goods or technologies mentioned in the certificate to the Republic of Poland, in accordance with the laws in force.

6. In case of exportation of strategic goods, trade control organ may request from the entrepreneur the submission of delivery verification certificate, issued by competent authorities of the importer's country.

Chapter 4
Recording of trade in strategic goods and information concerning that trade

Article 25.

1. The entrepreneur effecting trade in strategic goods shall record the said trade.

2. Minister for economy shall determine in a regulation manner of such recording, referred to in section 1, taking into account the conditions to be met by internal control system.

Article 26.

1. The entrepreneur effecting trade within general and global permits shall submit to trade control organ at least once per 6 months, the information on the realisation of the said trade.

2. Minister for economy shall determine in a regulation the scope of information referred to in section 1, covering in particular: quantity and value of goods, determination of country with which the said trade is carried out, names of importer, exporter, their registered places of business and addresses, indication of indirect receivers and purchasers.

Article 27.

Upon request of consulting organs trade control organ shall submit to the said organs the information on the realisation of trade in strategic goods.

Chapter 5
Trade control

Article 28.

1. The trade shall be subject to control.

2. The control shall include in particular:
   1) observance of the consistency of trade with the permit, including verification of the transaction after it is done,
   2) operation of internal control system,
   3) correctness of recording referred to in Article 25.

3. The control shall be carried out by trade control organ, with the assistance of the organs referred to in Article 29 section 2.

4. Trade control organ may request the control to be made by other competent state control organ.

Article 29.

1. To the control referred to in Article 28 section 1 trade control organ may nominate control team, hereinafter referred to as "the team".

2. On the request of the minister for economy, minister for foreign affairs, Minister for National Defence, minister for public finances, minister for interior, Chief of State Protection Office, Chairman of National Atomic Agency, Chairman of National Customs Office and General Customs Inspector, shall designate to the team employees, soldiers or employees of subjected or supervised organisational units. The minister for economy may nominate to the team the experts, upon their consent.

3. Trade control organ, when nominating the members of the team shall designate the director, who co-ordinates the control procedures as well as prepares post-control protocol.

4. Control activities are carried out on the basis of the authorisation for control issued by the trade control organ.

5. Minister for economy shall determine, in a regulation specimen of control authorisation. The specimen shall contain in particular: indication of person, type and number of identity document, validity date of authorisation document as well as the information that upon request of the authorisation owner who carries out control actions, the directors, members of management as well as the employees of controlled entrepreneurs shall give information and show documents.

Article 30.

1. The members of the team shall be entitled in particular to:
   1) Have access to the real estate, building, premises or their parts, where the entrepreneur carries out the business activity, on the days and within the hours in which it is or should be carried out,
   2) request oral or written explanations, documents or other information carriers as well as submit data related to the object of the control.

2. Control actions shall be carried out in the presence of the controlled person, deputies of the controlled person or employed by him, and in case of absence of the said persons in the presence of the witness.

3. Post-control protocol shall be submitted by the team leader to the trade control organ.

Article 31.

1. In case of incorrectness in the trade, trade control organ shall request the entrepreneur to restore the status consistent with the present Law within one month as from the delivery of the request.

2. Upon ineffective expiration of the period referred to in section 1 trade control organ shall withdraw, through administrative decision, individual permit. In case of global and general permits trade control organ shall issue administrative decision prohibiting to the entrepreneur the use the permit. The trade control organ shall immediately inform consulting organs on the issuance of the said decision.

3. In the case referred to in section 2 the entrepreneur may obtain subsequently the individual permit or use global or general permit not earlier than upon expiration of 3 years accordingly, as from the day on which the decision on the withdrawal of individual permit and the decision on the prohibition of use of general or global permit became final.

Article 32.

To the issues not regulated in this Chapter the provisions of the Law of 28 September 1991 on treasury control (Dz.U. of 1999, No. 54, item 572, No. 83, item 931, and of 2000, No. 70, item 816) concerning control procedure shall apply.

Chapter 6
Penal provisions and monetary penalties

Article 33.

1. He who effects trade without permit, or even inadvertently, contrary to the conditions determined in the permit, shall be subject to imprisonment from one year to 10 years.
2. If the perpetrator, effecting trade contrary to the conditions determined in the permit Laws inadvertently and has restored the status referred to in Article 31 section 1, shall be subject to fine, limitation of liberty or imprisoned up to 2 years.

3. The punishment referred to in section 1 shall apply to the perpetrator who committed the Law determined in section 1 or 2.

4. In case of sentence for the crime determined in sections 1-3 the court may decide on the seizure of strategic goods and of other objects used in or destined for the perpetration of or resulting directly or indirectly from the crime, including financial means and securities, even if they are not the property of the perpetrator.

Article 34.

He who fails to carry out obligations and conditions referred to in Article 24 section 1 or in Article 26 section 1, shall be subject to fine.

Article 35.

He who impedes control referred to in Article 28 section 1 shall be subject to fine.

Article 36.

The decision in the cases referred to in Articles 34 and 35 shall be made in accordance with the procedures determined in the Code on procedures in case of offences.

Article 37.

The entrepreneur who is not natural person, and who carries out trade without valid permit, shall be punished by the trade control organ with fine in amount of 200.000 zloty.

Article 38.

The entrepreneur who is not natural person and who carries out trade contrary to the conditions determined in the permit shall be punished by trade control organ in administrative decision with fine in amount up to 100 000 zloty.

Article 39.

The entrepreneur who is not natural person, and who fails to fulfil the obligations or conditions referred to in Article 24 section 1 or Article 26 section 1 shall be punished by trade control organ in administrative decision with fine in amount up to 50.000 zloty.

Article 40.

1. Monetary penalty shall not be sentenced if from the day on which the basis for liability referred to in Articles 37-39 were found the period of 5 years has lapsed.

2. The sentenced monetary penalty shall not be collected upon expiration of 5 years as from the day on which the sentence became final.

Article 41.

1. The period of payment of monetary penalty shall amount to 30 days as from the day on which the sentence became final.

2. Monetary penalty not regulated within the specified period shall be executed together with the interest for delay, in accordance with the procedure determined in the provisions on execution proceedings in administration.

Article 42.

If the payment of the monetary penalty within the period specified in Article 41 section 1 limits considerably or impedes further realisation of business activity by the entrepreneur, trade control organ may, upon request of the entrepreneur, issue administrative decision on the postponement of payment period or division thereof into instalments, for the period not longer than one year.

Chapter 7
Amendments to existing provisions

Article 43.

In the Law of 9 January 1997 Customs Code (Dz.U. No. 157, item 1026, No. 160, item 1084, of 1998 No. 106 item 668, No. 160, item 1063, of 1999 No. 40, item 402, No. 72, item 802, as well as of 2000, No. 22 item 269) in Article 14 paragraph 6a shall be replaced by the following:

"§ 6a. To the permits referred to in § 6 the provisions of article 17 item 20 of the Law of 11 December 1997 on the administration of external trade in goods and services (Dz.U. of 1997 No. 157, item 1026, of 1999, No. 5 item 587, No. 101, item 1178) shall apply."

Article 44.

In the Law of 11 December 1997 on the administration of external trade in goods and services and on special trade (Dz.U. of 1997 No. 157, item 1026, of 1999, No. 5 item 587, No. 101, item 1178) the following amendments shall be introduced:

1) in the title the words "as well as in special trade" shall be deleted,
2) in article 1 section 1 the words "as well as in special trade" shall be deleted,
3) item 3 in Article 2 shall be deleted,
4) Chapters 4-6 shall be deleted,
5) Article 55 shall be deleted.

Article 45.

In the Law of 10 September 1999 on some compensation agreements concluded in connection with contracts on delivery for the purposes of national defence and security (Dz.U. No. 80, item 903) in Article 3 item 5 shall be replaced by the following:
"5) armaments or military equipment – shall mean armaments in the meaning of the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and and amending certain laws.

Article 46.

In the Law of 7 October 1999 on the support for industrial restructuring of defence potential and technical modernisation of the Armed Forces of the Republic of Poland (Dz.U. No. 83, item 932) in Article 4 item 6 shall be replaced by the following:
"6) armaments or military equipment – shall mean armaments in the meaning of the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and and amending certain laws.

Chapter 8
Transitional and final provisions

Article 47.

The proceedings instituted on the basis of the provisions of the Laws referred to in Article 44 and 51 and not finalised before the entry into force of this Law with final decision shall be cancelled.

Article 48.

1. The permits for importation, exportation or transit of goods and technologies covered by the lists of goods and technologies subject to specific control issued on the basis of Article 3 section 1 of the Law of 2 December 1993 on the principles of specific control of external trade in goods and technologies in connection with the international agreements and obligations (Dz.U. No. 129, item 598, of 1996 No. 106, item 496, of 1997 No. 88, item 554, and No. 157, item 1026 as well as of 1999 No. 70 item 775, and No. 83, item 931) with the entry into force of the present Law shall become individual decisions in the meaning of Article 7 section 1 item 1 and shall remain in force for the period for which they were issued, not longer however than until 31 December 2001.

2. The permits issued on the basis of Article 38 section 1 of the Law of 11 December 1997 on the administration of external trade in goods and services and on special trade (Dz.U. of 1997 No. 157, item 1026, of 1999, No. 5 item 587, No. 101, item 1178) within the scope related to the special trade, with the entry into force of the present Law shall become individual decisions in the meaning of Article 7 section 2 and shall remain in force for the period for which they were issued, not longer however than until 31 December 2001.

Article 49.

Executive provisions concerning the lists of goods and technologies covered by specific control of external trade issued before the entry into force of the present Law on the basis of hitherto existing provisions, shall remain in force until new executive provisions on the basis of the present Law are issued, not longer however than for 6 months as from the entry into force of the present Law.

Article 50.

1. Until the entry into force of the provisions of Article 9 section 1 and 4 and Article 10 section 1 individual permits may be issued to the entrepreneurs who before the entry into force of the present Law have been entered to the register of entrepreneurs carrying out special external trade on the basis of the provisions of Article 33 of the Law of 11 December 1997 on the administration of external trade in goods and services and on special trade as well as to those who submitted certificate referred to in Article 11 section 4.

2. Before the entry into force of Article 8 section 2 only individual permits shall be issued for the trade in dual use goods.

Article 51.

The Law of 2 December 1993 on the principles of specific control of external trade in goods and technologies in connection with the international agreements and obligations (Dz.U. No. 129, item 598, of 1996 No. 106, item 496, of 1997 No. 88, item 554, and No. 157, item 1026 as well as of 1999 No. 70 item 775, and No. 83, item 931) shall terminate.

Article 52.

The present Law shall enter into force on 1 January 2001, except:
1) Article 8 section 2, which shall enter into force after 3 years as from the publication of this Law,
2) Article 9 section 4 item 1 and 4 and Article 10 section 1, which shall enter into force on 1 January 2002.

Appendix V

NO.	STATE	STATUS	SIGNATURE
1.	Bulgaria	Executive	22 April 1993
2.	Croatia	Executive	8 November 1994
3.	Cyprus	Executive	26 October 1992
4.	Czech Republic	Executive	6 September 1991
5.	Czech Republic	Executive	12 April 1995
6.	Egypt	Governmental	17 October 1996
7.	Finland	Governmental	4 November 1999
8.	France	Governmental	12 September 1996
9.	Greece	Governmental	18 June 1993
10.	Spain	Governmental	27 November 2000
11.	Netherlands	Executive	30 October 1996
12.	Ireland	Governmental	12 May 2001
13.	Lithuania	Governmental	4 April 2000
14.	Lithuania	Executive	28 September 1992
15.	Lithuania	Executive	10 November 2001
16.	Latvia	Executive	14 July 1994
17.	Morocco	Executive	26 June 1995
18.	Germany	Governmental	6 November 1991
19.	Russian Federation	Executive	20 November 1992
20.	Romania	Executive	13 August 1992
21.	Romania	Governmental	11 July 2001
22.	Slovakia	Executive	30 March 1993
23.	Slovenia	Governmental	28 August 1996
24.	Thailand	Governmental	23 September 1996
25.	Tunisia	Governmental	26 September 1994
26.	Turkey	Executive	30 January 1993
27.	Ukraine	Executive	12 March 1992
28.	Ukraine	Governmental	3 March 1999
29.	Hungary	Governmental	15 May 1996

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Security Council

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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Barbados, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72254 (E) 110102 290102

Annex

[Original: English]

Note verbale dated 24 December 2001 from the Ministry of Foreign Affairs and Foreign Trade of Barbados addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Ministry of Foreign Affairs and Foreign Trade of Barbados presents its compliments to the Secretary of the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001) and has the honour to submit the report requested in paragraph 6 of the resolution (see enclosure). The annexes of the report will be sent by courier shortly; in addition, the electronic version can be obtained from the Permanent Mission of Barbados to the United Nations.

The Government of Barbados stands ready to provide the Committee with further reports or information, as necessary.

Enclosure

Report of the Barbados Government pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Introduction

1. The terrorist attacks perpetrated against the United States on September 11th, 2001, caused shock and outrage to Barbados and all Barbadians. Barbados was among the eighty countries directly affected by the attacks on the World Trade Centre, in which five of its nationals were killed.

2. In public statements made in the aftermath of September 11th, the Government of Barbados has expressed its explicit and unequivocal condemnation of the terrorist attacks and stressed that no cause or grievance can ever justify the use of violence as a means of settling disputes, or legitimise the taking of innocent lives.

3. Barbados has pledged to cooperate fully with the International Community, in accordance with international law and Conventions, in the sustained effort to respond to this threat to international peace and security and to this end has supported all United Nations General Assembly resolutions. Within the hemisphere, it has participated in the Meetings of Consultation of Foreign Ministers convened under the OAS Charter and under the Rio Treaty, and has supported the Resolutions adopted by these bodies condemning the attack, and committing hemispheric Governments to strengthen cooperation to prevent, combat and eliminate terrorism in the hemisphere.

4. Within the region, Heads of Government of the Caribbean Community (CARICOM) met in Emergency Session to discuss the security and economic implications of the September 11 terrorist attacks, and issued a Declaration on Terrorism, which is annexed to this report.

5. The events of September 11th have had an immediate and far-reaching impact on the major sectors of the Barbados economy, namely tourism, and financial services. This has necessitated the putting into place of a package of National Emergency Measures to mitigate the effects of the crisis. In addition, discussions are taking place among the Ministers of Finance of CARICOM on the elaboration of a comprehensive assistance package for the region for presentation to the International Financial Institutions.

6. Barbados as a member of the United Nations has always honoured its obligations to comply with United Nations Security Council resolutions. Following the passage of Resolution 1373, the Government of Barbados took immediate steps to form an Inter-Ministerial Committee, under the chairmanship of the Attorney General, to review the status of its security and legislative framework with specific reference to terrorism, and to determine the action required by Barbados in response to the mandates of that Resolution. The Inter-Ministerial Committee has reviewed the resolution and has identified areas where:

(a) Barbados is already in compliance,

(b) although the objectives are supported, there may be constitutional, legal, financial and administrative difficulties in following the precise course of action in the manner prescribed by the Security Council, and :

(c) the legislative, financial and administrative framework can be amended or strengthened as the case may be.

This report will give details on action taken to date, action in process or being contemplated, and areas where difficulties have arisen, and where further study and review is in progress.

7. The wide-ranging nature of UNSCR 1373 (2001) requires extraordinary action on Barbados' part legislatively, financially and administratively. This has created a burden on its human and financial resources. This Report will identify those areas where the burden is most acute and where Barbados wishes to avail itself of the assistance offered by the Counter Terrorism Committee (CTC).

8. In preparing the report, the Government took into account the guidelines submitted by the CTC in Note SCA/20/01(6). The Report is organised in accordance with the structure of the resolution.

Paragraph 1. Decides that all states shall:

(a) Prevent and suppress the financing of terrorist acts

9. The Barbados Government is committed to enhancing its capability to prevent and suppress the financing of any terrorist activity of which it has knowledge. Currently no such crime exists under our law, although offences that lead to loss of life or damage to property are punishable under common law and statute. It should be noted that there is a Foreign Incursions and Mercenaries Act CAP. 174 which makes it a crime to recruit mercenaries in Barbados. It also seeks to prevent armed incursions into other countries by Barbadians. This legislation, which is being provided to the Committee, particularly Sections 5 to 7, clearly prohibits the recruitment within Barbados of any person for the purpose of taking part in any warfare or armed conflict out of Barbados and also makes it an offence, to transport or convey, or to assist in the transportation or conveyance of such persons for this purpose. Barbados' only experience with terrorism to date is the 1976 bombing of a Cubana Airline off Barbados. It should be noted that in 1973 Barbados enacted the **Hijacking Act CAP135-A**. Since September 11, 2001 and since the signing of the International Convention on the Suppression of Terrorist Financing in November 2001, the Government of Barbados has clearly articulated its intention to introduce into Parliament a Bill that will specifically make terrorism and the financing of terrorism and all ancillary acts criminal offences. It should be noted that once this legislation is in place, **The Money Laundering (Prevention and Control) Act 1998-38** and the **Proceeds of Crime Act CAP 143** would both be applicable to any person engaging in terrorist related activity. Further, the passage of this legislation will also allow for the applicability of the **Extradition Act CAP 189** in the case of terrorist crimes.

10. Access to intelligence information has become easier in Barbados because of the country's well-regulated financial services sector, which has been in existence for over thirty years. The sector was developed in the 1970s, following the advice of donor governments and international agencies, as a conscious effort to diversify the Barbados economy, and lessen its historic dependence on the production and export of one crop, cane sugar. In addition, Barbados is internationally recognised for the sound, prudent and transparent management of its financial affairs, a reputation which is borne out by the high international credit rating it currently enjoys.

11. From the outset the Barbados Government has taken great care to establish an independent regulatory framework to ensure that the operation of its financial services sector meets the highest international standards.

12. Since the enactment of the 1965 **International Business Companies Act**, which was revised in 1991, Barbados has developed a wide range of legislation to promote its international business and financial services sector. This includes:

- **The Offshore Banking Act (1979)**
- **The Income Tax Act**
- **The Shipping Act and The Shipping Incentives Act (1991 and 1992)**
- **The Exempt Insurance Act (1983)**

- **The Barbados Foreign Sales Corporation Act (1984)**
- **The International Trust Act (1995)**
- **The Societies with Restricted Liability Act (1996)**
- **The Mutual Funds Act (1998)** and **The Companies Act (1982).**

13. This legislation together with an extensive network of tax and bilateral investment treaties has opened the sector to international investors worldwide. Presently some 6775 offshore entities are licensed to do business in Barbados. These include International Business Companies, Foreign Sales Corporations, Offshore Banks, Exempt Insurance Businesses, Societies with Restricted Liability, Trusts. The Ship's Registry, Credit Unions and Insurance Companies operate in the sector.

14. The sector is supervised and regulated by a number of agencies including the Central Bank of Barbados, and the Ministry of Economic Development through its Corporate Affairs and Intellectual Property Office, and its International Business Division.

15. The Central Bank of Barbados, established in 1972 regulates these financial institutions according to the standards of the International Community. The Corporate Affairs and Intellectual Property Office is responsible for the incorporation of companies and the registration of associations, business names, and partnerships. The Department is also responsible for intellectual property matters. The International Business Division is responsible for the licensing of Societies with Restricted Liability, Foreign Sales Corporations, International Business Companies, and Exempt Insurance Corporations.

16. Under the Companies Act, at the request of a shareholder, debenture holder or the Registrar of Corporate Affairs and Intellectual Property, the court can order that an investigation be carried out into the activities of any company or its affiliates. The application can be based on a suspicion of fraud. This applies to all companies incorporated or registered in Barbados.

17. Credit unions and insurance companies are regulated under different regimes with the regulator of credit unions being the Registrar of Co-operatives and the regulator of insurance companies being the Supervisor of Insurance. These Regulators operate under the aegis of the Ministry of Commerce and Consumer Affairs and the Ministry of Finance respectively. In addition, Parliament passed the **Securities Act in 2001**, which further strengthens the regulatory framework under which the Securities Exchange operates and provides for a greater level of transparency.

18. Barbados supports concerted international action to prohibit the financing of terrorist activity. To this end Barbados believes that the effective exchange of information is necessary under the appropriate bilateral and multilateral international instruments. In this regard Barbados negotiated a full Double Taxation Agreement as far back as December 1984 with the United States of America (USA). This Agreement contains an exchange of information article. Barbados also entered into a Tax Exchange of Information Agreement with the USA in 1984. The exchange of information is a provision that is embodied in Double Taxation Agreements which Barbados signs with other countries. Barbados currently has Double Taxation Agreements with Switzerland, United Kingdom, France, Canada, United States, Finland, Norway, Sweden, China, Cuba, Venezuela and Malta, which provide adequately for the exchange of information. It is actively pursuing negotiations with several other countries, in order to expand its network of bilateral Double Taxation Treaties, and strengthen reciprocal cooperation on tax matters, including the exchange of information.

19. In addition, Section 18 (1C) of the **Exempt Insurance Act** allows for the exchange of information pursuant to a Double Taxation Agreement (DTA).

20. Barbados is a party to the Caribbean Community (CARICOM) Multilateral Double Taxation Treaty. The following member states and territories are a party to this Treaty: Anguilla, Antigua and Barbuda, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago.

21. In addition, the country has a practice of co-operating in tax matters and investigations into criminal activity. Several OECD countries have confirmed that Barbados is willing to co-operate with foreign countries in tax matters, and there are procedures in Barbados for the exchange of information on a routine basis.

"Decides that all states shall:

1 (b) "criminalise the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used in order to carry out terrorist acts."

22. For Barbados any assistance rendered in the execution of any criminal act including the provision or collection of funds with the intention of funding a criminal act brings one within the purview of criminal sanction as an aider or abettor or a conspirator. This is provided for at Common Law and in the **Criminal Procedure Act CAP 127**. Although Barbados has had no specific case involving funding for the purposes of terrorism the authorities are closely monitoring this area.

23. The following enactments, the texts of which are appended to this report, relate to the prevention and control of money laundering, the proceeds of crime, and related matters:

(a) **The Money Laundering (Prevention and Control) Act, 1998-38**

- Creates the offence of money laundering together with other related offences.
- Creates an Anti-Money Laundering Authority as a regulatory body to supervise financial institutions.
- Provides for the freezing and forfeiture of assets in cases of money laundering.

(b) **The Money Laundering (Prevention and Control) (Amendment) Act 2001**

- Makes new provisions relating to the burden of proving the charge of money laundering.
- Strengthens the information gathering powers and procedure in such cases.

(c) **The Proceeds of Crime Act CAP 143**

Provides for the forfeiture or confiscation of the proceeds of certain crimes

(d) **The Mutual Assistance in Criminal Matters Act, Cap. 140A**

Makes provision for mutual assistance to be given between Barbados and other countries (namely the Commonwealth, those countries that are signatory to the Vienna Convention and those countries with whom we have a specific bilateral treaty on this matter) in respect of criminal matters.

24. The Government of Barbados has embarked on a vigorous public education campaign on anti-money laundering. To this end there have been continuous public service announcements on both radio and television in addition to the dissemination of brochures and pamphlets. A copy of the brochure published by the Anti-Money Laundering Authority is appended to this report.

25. The **Money Laundering (Prevention and Control) (Amendment) Act, 2001**, **Section 8A**, covers all spredicate crimes with penalties in excess of twelve months imprisonment and is not confined to drug-related offences. Further, it requires persons who are transferring sums into and out of Barbados in excess of BDS$10, 000.00,* to report such transfers to the Anti-Money Laundering Authority. It should be noted that transfers in excess of BDS$10,000.00 are not reportable under the following circumstances:

1. Where permission for the transfer was obtained under the **Exchange Control Act, Cap 71**.

2. By a commercial carrier in respect of currency in the possession of the carrier's passengers.

3. By a commercial carrier of goods in respect of currency carried on behalf of another person unless the other person has disclosed to the carrier that the goods include currency.

4. By a financial institution in respect of currency transferred on behalf of that financial institution by a commercial carrier of goods.

26. However, for the last thirty years, Barbados has had in place a legislative framework to monitor and control the movement of foreign currency into and out of the country. The Exchange Control Act requires the reporting of all transfers into Barbados of currency or other monetary instruments in excess of BDS$10,0000.00 or its foreign currency equivalent. It is also a requirement that all transfer out of Barbados of BDS$7,500.00 or more be authorised under the **Exchange Control Act, CAP 71**. The benefit of this legislation is to allow the Central Bank to effectively track the legitimate movement of all funds and to enhance the regulatory and investigative powers of the State.

27. To date, no problem has been experienced in dealing with money-laundering cases in obtaining court orders for either investigations or prosecutions. **Under the Money-Laundering (Prevention and Control) Act 1998-38** and the **Proceeds of Crime Act, CAP 143** a number of law enforcement capabilities exist. These are Monitoring Orders, Inspection Orders, Production Orders, Restraining Orders, and Freezing Orders. Both pieces of legislation have led to significant activity in the enforcement of the law with respect to investigations and proceedings.

28. Furthermore, it should be noted that **The Money Laundering (Prevention and Control) (Amendment) Act, 2001** gives extensive investigative powers to the Financial Intelligence Unit (FIU) which reports to the Attorney General. The FIU has access to all the relevant financial agencies including the Land Tax Department, The Value Added Tax Office, the Department of Inland Revenue, The Customs Department and the Corporate Registry. Such access serves to enhance the investigative powers to develop financial transaction profiles of individuals or bodies operating in the country. This information is confidential and can only be used for the legitimate purposes authorised by the legislation. In addition, Section 8 of the Act requires financial institutions to:

- report all suspicious or unusual transactions to the Authority;

- comply with instructions of the Authority;

* The fixed exchange rate of the Barbados dollar is $2.00 to US$ 1.00.

- permit any member of the Authority or a person authorised by it, to enter any premises and inspect records;
- make notes or take copies of such records; and
- answer any questions of the Authority

29. Specifically, Barbados' Anti-Money Laundering Authority (AMLA) assists in regulating its financial regime. The Authority falls within the portfolio of the Attorney-General and it supervises financial institutions in accordance with the **Money Laundering (Prevention and Control) Act**. It co-ordinates Barbados' anti-money laundering efforts, thus assisting the financial community to prevent money laundering as well as assisting law enforcement in detecting it.

30. The affairs of international banking customers are covered by confidentiality in relation to the international bank's dealings with the Central Bank as the regulatory authority. Statements, returns or information of licensed international banks in respect of their business, may be disclosed to the Central Bank, the relevant Minister and other public officers. Information with respect to licensed onshore banks is published in the Official Gazette.

31. In response to a request by the Anti-Money Laundering Authority, under the **Financial Institutions Act**, the Central Bank may disclose information to:

- the Director of Public Prosecutions
- the Commissioner of Inland Revenue or
- the appropriate supervisory authority of financial institutions outside Barbados

32. **The International Business Companies Act** allows disclosure of information where:

- it forms part of the public record kept by the Registrar of Companies,
- the disclosure is authorised by the company
- it is requested by a court of a competent jurisdiction, or
- when authorised by the **Income Tax Act** or by an international agreement to which Barbados is a party.

33. Under Section 76 of the **Income Tax Act**, the Commissioner of Inland Revenue has wide powers to audit books, examine records, enter into premises, demand information in the form of books, letters, accounts, invoices, statement, or other documents.

34. With offshore companies, the risks and premiums originate outside Barbados while the Companies are incorporated and licensed in Barbados. The Division of International Business and the Office of the Supervisor of Insurance (OSI) carefully screen all applicants and undertakes due diligence tests before accepting any new business. This includes obtaining information from rating agencies like A.M Best and Standards and Poors and consulting the Supervisor in the home jurisdiction.

35. The anti-money laundering legislation and the guidelines of the International Association of Insurance Supervisors to which Barbados adheres, have enhanced the monitoring capacity of the Office of the Supervisor of Insurance (OSI). The screening of clients requires the disclosure of additional information on the shareholders, directors and the parent companies.

36. The legislation prohibits the transfer of share or assets without the permission of the Minister. The Supervisor of Insurance is allowed to carry out checks on insurance companies in an effort to monitor their operations closely.

37. Management companies in the area of insurance are legally obliged to report to the Supervisor of Insurance any areas of non-compliance with the legislation or any intended legal proceedings against the company in the home jurisdiction. The Office of the Supervisor of Insurance is committed to ensuring that companies registered in this jurisdiction are reputable and uphold the requirements of the legislation.

"Decides that all States shall:

1 (c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities."

38. In Barbados' legal system the freezing, restraining, forfeiture or confiscation of assets is only available under the **Proceeds of Crime Act, Cap 143**, the **Money Laundering (Prevention and Control) Act, 1998-38** and the **Customs Act CAP 66**, and must relate to some form of unlawful activity which carries a sentence in excess of twelve months imprisonment. **The Barbados Constitution does not provide for civil forfeiture but it is possible for assets to be frozen when the offence committed carries a penalty greater than twelve months. Equally it is possible to forfeit or confiscate the property of a person who has been convicted of an unlawful act where the property is shown to be proceeds of crime. However, Resolution 1373 may require that assets be frozen or confiscated in respect of a person who has been deemed a terrorist by an Executive Order but who has never been charged or convicted. In those circumstances the Constitution of Barbados, does not so provide. The matter of due process is clearly enshrined in the Constitution, and action taken by the Authorities against individuals or their property must be consistent with the due process and the fundamental rights provisions of the Constitution, which are the country's obligations under the Universal Declaration of Human Rights, and other relevant regional and international Conventions.**

39. In preparation for the drafting of the proposed new legislation on terrorism, the Barbados Government has retained the services of a legal consultant to advise further on the legal and constitutional implications of civil forfeiture and the freezing of assets.

"Decides that all States shall:

1 (d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons."

40. Notwithstanding that Barbados has no specific legislation on terrorism and the financing of terrorism, the existing law and regulatory framework may be adequate to detect activity in this regard and to take appropriate action. However, the proposed legislation by the Government of Barbados will specifically address these concerns. Barbados is committed to cooperating with the international community in the effort to suppress the conduct of terrorist activities and the financing thereof. As stated before, however, the Constitution of Barbados is clear on the due process that must be adhered to prior to sanctions or some form of punishment being applied to an individual or organisation. Nevertheless, as indicated in earlier sections of this

report, Barbados does have a well-regulated financial services sector that provides information which can trace financial transactions. Further, our financial institutions respond readily to legitimate requests made through the Financial Intelligence Unit (FIU).

41. In response to information requested under the provisions of Security Council Resolutions 1267 (1999) and 1333 (2000), which call for the freezing of the assets of persons or entities identified on the lists circulated by the Sanctions Committee, the financial institutions in Barbados have cross-checked the lists with the names of persons who transact business in Barbados and to date there is no indication of any match. Accordingly, there is yet to be any test locally as to the extent that our Constitution and its provisions for due process will allow freezing or confiscation of assets of a person or organisation before they are charged or convicted. In the absence of such specific guidance, the Government of Barbados anxiously awaits the outcome of the study that it has commissioned with the assistance of the Caribbean Technical Assistance Centre (CARTAC).

Paragraph 2: "Decides also that all States shall

(a) R*efrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists."*

42. There is no evidence of Barbados being used for the recruitment of terrorists. The law enforcement and security agencies have an intelligence gathering capacity in this regard, and monitor suspicious activities on an ongoing basis. While the Constitution of Barbados gives guarantees of freedom of religion, expression, and association, **The Public Order Act CAP 168A** does provide certain safeguards against the abuse of these rights, including the prohibition of the unauthorised meeting of persons to plan or conduct activities deemed prejudicial to public safety.

43. Further, **the Foreign Incursions and Mercenaries Act CAP 174** serves to prohibit the recruitment of mercenaries in Barbados and to prevent armed incursions into other countries by Barbadians. This legislation, which is being provided to the Committee, particularly Sections 5 to 7, clearly prohibits the recruitment within Barbados of any person for the purpose of taking part in any warfare or armed conflict out of Barbados and also makes it an offence, to transport or convey, or to assist in the transportation or conveyance of such persons for this purpose.

44. In Barbados there is no automatic right to bear arms, and on the contrary, only licensed firearm holders are allowed to do so. The supply of weapons to citizens is controlled by the **Firearms Act 1998-32**. This Act prohibits the supply of firearms and or explosives to persons without a licence or other authority to carry such weapons. In order to acquire a firearm, an applicant must satisfy certain requirements including providing proof of competence in handling the weapon and justification of the need for a firearm. There is a firearms policy confining the firing power to a calibre below that used by the Police Force and the type of ammunition allowed is under restriction. The number of licensees is relatively small and the granting of licences is very carefully controlled and monitored. The licences are renewable annually. Members of the civilian force (Royal Barbados Police Force) do not carry arms on routine duty. Weapons are only issued to them in special circumstances.

45. Barbados does not manufacture, produce or distribute weapons, ammunition or military equipment or hardware of any type. Arms required by the Security Authorities for the legitimate defence of the country are imported under a system, which is strictly regulated and managed. The Government is satisfied that Barbados has no capacity to supply weapons to terrorists, and controls are in place to prevent the illegal development of such a capacity.

46. Barbados has signed the **Inter-American Convention Against Illicit Manufacture and Trafficking in Weapons, Munitions, Explosives and Related Materials (1997)** and is currently taking steps to ratify it. Further, Barbados has signed the **United Nations Convention on Transnational Organised Crime** and the

Three Optional Protocols. The Third Protocol specifically deals with the illicit manufacture, sale and trafficking in firearms.

47. There is increasing concern in Barbados and the Caribbean about the free availability of weapons in other jurisdictions, and the increasing incidence of illegal export of small arms, largely among criminal elements engaged in narco-trafficking and their introduction among populations where civilians and the police force are unarmed.

"Decides also that all States shall:

2 (b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other states by exchange of information."

48. Barbados is a small developing state, and as a consequence it has a small Standing Army, created some 20 years ago to replace the volunteer Regiment that had served in colonial times and in the first decade of Independence. That army, the Barbados Defence Force (BDF), headed by a Chief of Staff, is charged with protecting the country from external security threats in accordance with the **Defence Act (Cap 159)**. Its mandate includes defending the Exclusive Economic Zone and engaging in search and rescue efforts in that zone. The BDF, particularly the Coast Guard Division, is heavily involved in the fight against narco-terrorism.

49. The Royal Barbados Police Force comprises some 1250 officers and is primarily involved in the maintenance of law and order, the protection of life and property, the prevention and detection of crime as well as the enforcement of all laws and regulations. Although there is a clear demarcation between the duties of the Barbados Defence Force and the Police Force, the Defence Force can be called out to assist the Police by a request through the Governor-General. Assistance from the Defence Force is solicited with respect to joint patrols of coastal areas regarding drug trafficking and in cases of civil disorder.

50. The resources allocated for defence and security are modest as befits the needs of a small stable democracy whose emphasis in public spending is on the economic and social development of its people. While public expenditure on defence and security has not been a priority in the past, the system in place for defence of national territory can also deal, as required, with the new phenomenon of terrorism and the activities of terrorists.

51. Barbados and the countries of the Eastern Caribbean recognise that their capacity for self-defence is minimal but have been reluctant to increase military infrastructure and expenditure at the national level at the expense of other development priorities. They have therefore agreed to a system of military co-operation to provide for their collective defence in emergency situations.

52. This system, known as the Regional Security System (RSS) came into being in 1982 through a Memorandum of Understanding, which was upgraded, to a treaty in March 1996. The treaty is deposited with the United Nations. The mandate of the RSS Treaty provides in article 4 as follows -

53. "The purposes and functions of the system are to promote co-operation among the member states in the prevention and interdiction of traffic of illegal narcotic drugs, in national emergencies, search and rescues, immigration control, fisheries protection, customs and excise control, maritime policing duties, natural and other disasters, pollution control, combating threats to national security, the prevention of smuggling, and in the protection of off-shore installations and exclusive economic zones."

54. The scope of the RSS Treaty arrangement allows for it to play a supportive role, if required, to assist national efforts in detecting and preventing potential acts of terrorism and the illegal movement of suspected terrorists throughout the Eastern Caribbean.

"Decides also that all States shall:

2 (c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens."

55. As indicated earlier, the Government of Barbados proposes to introduce to Parliament specific legislation to deal with the matter of terrorism, which would encompass the creation of a criminal offence in respect of the provision of safe haven to those who finance, plan, support, or commit terrorist acts. The current provisions of the First Schedule of the **Immigration Act CAP 190** as detailed at paragraph 2 (g) of this Report, which deal with persons deemed to be prohibited entrants to Barbados are also relevant in this context.

"Decides also that all States shall:

2 (d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens."

56. In the proposed new legislation on terrorism to be passed, the definition of terrorism will not be limited to an offence committed in Barbados alone. To that extent it will deem it to be a crime even if the offence relates to another state or its citizens. This is consistent with the principles within our criminal law, which allow for the prosecution or liability of persons who plan operations from within Barbados. The provisions of the **Foreign Incursions and Mercenaries Act Cap 174** appear also to be relevant.

"Decides also that all States shall:

2 (e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts."

57. The proposed legislation respecting the offence of terrorism will capture these acts. However our existing domestic law is currently applicable in instances where there is loss of life or the endangering of life, or damage to property or injury to persons as a result of a terrorist act committed in or from Barbados. In addition the Foreign Incursions and Mercenaries Act CAP. 174 also creates an offence for the commission of an hostile act and hostile act is also defined as inciting fear of loss of life or loss of property as sometimes happens in terrorist acts. The laws of Barbados provide for the mandatory imposition of capital punishment for murder or treason while the maximum sentence of life imprisonment applies for very serious offences.

"Decides that all States shall:

2 (f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings related to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings."

58. Under existing arrangements, Barbados collaborates with the following organisations: INTERPOL (International Criminal Police Organisation), ROCCISS (Regional Counter Criminal Information Sharing System) and NJHQ (National Joint Headquarters). Barbados also participates in a bilateral information exchange programme with the United States with which it has concluded a series of Agreements for cooperation in suppressing illicit maritime drug trafficking, and the preventing and combating of criminal activities including the illicit traffic in narcotic drug and psychotropic substances.

59. Should information of planned terrorist activity that would affect another state come to the knowledge of authorities in Barbados, that state would be immediately informed. Such information may be relayed under the

Mutual Assistance in Criminal Matters Act, Cap 140A, the **Money Laundering (Prevention and Control) Act, 1998-38**, under a treaty arrangement where one exists, through INTERPOL under the Regional Organised Counter Crime Intelligence Sharing System agreement, or by administrative arrangements. In addition Section 6C of the **Anti-Money Laundering (Prevention and Control) Act** allows the Director of the Financial Intelligence Unit to communicate information that is relevant to that Act to any national financial intelligence unit of a foreign state.

60. Barbados has recently amended its **Mutual Assistance in Criminal Matters Act** and the **Money Laundering (Prevention and Control) Act**, to facilitate the country's ability to lawfully share information on an international level. All countries that are signatories to the 1998 Vienna Convention may benefit from the sharing of information under the former Act and all appropriate national financial intelligence units may similarly benefit under the latter Act.

61. The Royal Barbados Police Force is a member of INTERPOL and this allows for timely receipt and dissemination of information on matters of an international criminal nature.

62. The Barbados Customs and Excise Department is a member of the World Customs Organisation (WCO) and the Caribbean Customs Law Enforcement Council (CCLEC) both of which represent the collective law enforcement interests of the member administrations. Both the WCO and the CCLEC exchange information and intelligence globally, through the Customs Enforcement Network (CEN) and Joint Intelligence Offices (JIO). Additionally, the CCLEC has signed a Memorandum of Understanding (MOU) with the Association of Caribbean Commissioners of Police (ACCP), which provides for mutual assistance in law enforcement matters. The CCLEC is currently discussing the signing of a similar MOU with INTERPOL.

63. On October 20, 1998 a Memorandum of Understanding was signed between the Caribbean Customs Law Enforcement Council and the Regional Security System. The MOU recognised that the prevention of criminal acts against society are matters of common concern and priority for Governments in the Caribbean region and that the responsibility of customs officers and organisations includes the prevention of smuggling and the trafficking of prohibited and restricted goods, including drugs and firearms, and in this regard, the prevention of trans-national crime.

64. The responsibility of the RSS under the MOU includes the enforcement of the law relating to smuggling and the trafficking in prohibited and restricted goods, including drugs and firearms.

65. The MOU reinforces the need to create and sustain an open dialogue between the two regional agencies to enhance co-operation which would ultimately assist in the prevention of smuggling, trafficking in prohibited and restricted substances and the protection of societies. The MOU speaks to the Exchange of Information and states as follows "the parties undertake to co-operate in the exchange of information and intelligence, in accordance with the law of each country to ensure the expeditious application of enforcement efforts where this can be used to expedite or enhance enforcement efforts for the detection or prevention of smuggling, and drug trafficking."

"Decides also that all states shall:

2 (g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents."

66. Entry into Barbados by non-nationals is governed by the **Immigration Act (CAP 190)** of the Laws of Barbados. Visitors to Barbados require a valid passport and return or onward ticket for entry into the country. Entry into the country without a Visa is permitted to members of certain Commonwealth countries and to nationals of countries with which Barbados has concluded Visa Abolition Agreements. Security and illegal overstay concerns are among the factors which guide the visa requirement policy, which is reviewed on an

ongoing basis. Following the events of September 11th, an urgent review of the list of countries whose nationals require visas, as well as of the security screening procedures prior to the granting of a visa, is being undertaken.

67. Persons other than individuals born in Barbados can only obtain citizenship by way of marriage, naturalisation or registration. Clear procedures and eligibility criteria, including time frames are laid down in each case. Barbados strongly opposes the policy of 'economic citizenship' and does not grant passports to non-nationals in exchange for financial contributions or economic benefits.

68. **The First Schedule to the Immigration Act Cap 190** contains comprehensive provisions to prevent the lawful entry of categories of persons whose criminal record or activities might pose a threat to national security. These provisions could be used to deny entry to foreign nationals suspected of terrorist activities once relevant and timely information is provided to the Immigration Authorities. Persons prohibited entry into Barbados include those who:

(a) are addicted to the use of any drug;

(b) are or have been at any time engaged or reasonably suspected of being likely to engage in the unlawful giving or using, the offering or exposing for sale, or buying of, or the trading or trafficking in, any drug; or

(c) have been convicted of an offence under any enactment relating to dangerous narcotic drugs.

69. In addition it prohibits entry by persons who:

(a) Have been convicted of, or admit to having committed, a criminal offence which, if committed in Barbados, is punishable with imprisonment for a term of 1 year or longer;

(b) Knowingly or for profit, aid, encourage or procure other persons who are not citizens of Barbados to enter Barbados illegally;

(c) are stowaways or seek to enter Barbados illegally.

70. The law also prohibits entry to persons who are or have been at any time before or after February 2, 1976 advocates of:

(a) the overthrow by force or violence of the Government of Barbados or any other country or all forms of law;

(b) the abolition of organised government;

(c) the assassination of any person or the unlawful destruction of property.

71. Persons who are or have been members of or affiliated to any organisation which entertains or teaches any doctrine or practice specified in sub-paragraphs (a) to (c) directly above are also prohibited.

72. Barbados Passports are issued at the Immigration Department in Barbados and at its ten Diplomatic and Consular Missions abroad. The printing and supply of passports is done under highly secure conditions by an internationally recognised firm and all stocks carefully controlled and accounted for by the Immigration authorities. The passport records, stock books and revenue receipts are subject to regular scrutiny by the Auditor General's Department. Measures are being implemented to further enhance their security through the introduction of machine-readable documents in the near future.

73. There have been crude attempts, emanating from individuals based in countries outside of Barbados to forge the Barbados passport, largely for the purposes of entering certain developed countries, but these are easily detected and their users denied entry. The Barbados authorities cooperate closely with their counterparts in other friendly countries in the detection of forged or falsified travel documents and visas, and have also implemented a process of validating the travel documents of other countries. Officers from Immigration Department, the Customs and Excise Department, and the Royal Barbados Police Force have all been trained in the identification of counterfeit documentation.

74. Both the Immigration Department and the Royal Barbados Police Force actively engage in measures to prosecute anyone involved in the use of fraudulent travel documents. **The Immigration Act** empowers Barbados to take action against those persons who are seeking to enter or entering Barbados with false documentation and amendments are being processed to make provisions for the apprehension of persons attempting to leave Barbados with false documentation.

75. There are currently only three legal ports of entry into Barbados namely the Grantley Adams International Airport, the Bridgetown Port and Port St. Charles. These ports are manned by uniformed and plainclothes immigration, customs security and police officers who process passengers and cargo. They also provide surveillance, act as a deterrent, and respond as necessary to security matters.

76. The Grantley Adams International Airport operates in conformity with the relevant guidelines of the International Civil Aviation Organisation (ICAO), and meets the requirements of FAA Air Carrier Standard Security Programme. The Government cooperates fully with the Federal Aviation Administration of the United States and the relevant Authorities of other Governments, in ongoing efforts to maintain and strengthen airline and airport security worldwide.

77. Since September 11 substantial funds have been provided for the upgrading of security facilities at the airport and seaport consistent with the nature of the increased threat.

"Calls upon all States to:

3 (a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movement of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups."

78. Barbados is seeking to strengthen its capacity to gather information relevant to these illegal activities, and will, as with any information that is gathered in the fight against any criminal activity, be willing to share the information with other relevant entities and countries.

79. The Government has announced its intention to introduce legislation regarding interception of communications subject to judicial control.

"Calls upon all States to:

3 (b) Exchange information in accordance with international and domestic law and cooperate in judicial matters to prevent the commission of terrorist acts."

80. This mandate has already been substantially addressed in the response to paragraph 2 (f).

"Calls upon all States to:

3 (c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts."

81. Barbados, as a small island developing state recognises the importance of global institutions and international co-operation to combat the multilateral problems of the twenty-first century. Barbados views the United Nations Security Council as the most appropriate body to develop the necessary framework to combat terrorism and views international cooperation in the sharing of information and technical expertise as essential to developing a successful global response.

82. Several of its bilateral and international cooperation arrangements in this regard have been detailed in other sections of this report. In addition it should be noted that Barbados is a member of the Caribbean Financial Action Task Force (CFATF), which is affiliated to the Financial Action Task Fofce (FATF). The CFATF is in the process of reviewing the special recommendations on terrorist financing emanating from the Extraordinary Plenary Meeting called by the FATF to discuss its response to the events of September 11th and has devised a Plan of Action to combat terrorist financing in the Caribbean Basin.

"Calls upon all States to:

3 (d) become party as soon as possible to the relevant international conventions and protocols related to terrorism including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999."

83. Barbados has consistently supported United Nations Security Council Resolutions condemning terrorism and has become a state party to seven of the twelve major terrorist related United Nations Convention which are as follows:

(a) The Convention on Offences and Certain Acts Committed on Board Aircraft (1963) (ratified 1972) **Civil Aviation (Tokyo Convention) Act CAP 123 B**

(b) The Convention for the Suppression of Unlawful Seizure of Aircraft (1970) (ratified 1973) **Hijacking Act CAP 135 A**

(c) The Convention for the Suppression Unlawful Acts against the Safety of Civil Aviation (1971) (ratified 1976) **(Civil Aviation (Montreal Convention) Act**

(d) The Convention on the Prevention and Punishment of Crimes against International Protected Persons, including Diplomatic Agents (1973) (acceded1979) **(The International Protected Persons Act, CAP. 19)**

(e) The International Convention against the Taking of Hostages (1979) (acceded 1981)

(f) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988) (acceded 1984)

(g) The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988) (acceded 1984)

84. In addition Barbados signed in 2001, **The International Convention for the Suppression of the Financing of Terrorism (1999)** and is party to the **Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.**

85. Barbados is currently examining the International **Convention for the Suppression of Terrorist Bombings**, the **Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation** and the **Convention on the Marking of Plastic Explosives for the Purpose of Detection** with a view to acceding to them. Barbados is also currently reviewing the **Chemical Weapons Convention.**

86. Technical and financial assistance in this area remains essential to facilitate the legal and reporting requirements of the Conventions.

"Calls upon all States:

3 (e) Increase cooperation and fully implement the relevant international conventions and protocols related to terrorism and Security Council Resolutions 1269 (1999) and 1368 (2001)."

87. The action taken, or being contemplated in this regard has already been indicated. Barbados intends to comply with the provisions of all relevant conventions to which it becomes a party, and will enact the necessary enabling legislation, where relevant, to allow it to do so.

"Calls upon all States to:

3 (f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts."

88. Barbados is not a party to the Convention on the Status of Refugees or the 1967 Protocol, but is a party to the American Convention on Human Rights which states, in Article 22, support for the principle of asylum and non-refoulement.

89. **The Immigration Act CAP 190** of Barbados makes no specific mention of refugees and policies pertaining to them. In effect, Barbados has no domestic legislation to regulate the question of refugees, and is not a refugee receiving country, although it has on occasion provided transit arrangements for a small number of refugees at the request of the United Nations High Commission for Refugees.

"Calls upon all States to:

3 (g) Ensure, in conformity with international law that refugee status is not abused by the perpetrators, organisers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists."

90. As indicated earlier, Barbados has no programme for the granting of refugee status, and does not grant such status to persons for the purpose of residing permanently in Barbados.

91. **The Extradition Act Cap 189**, does recognise offences of a political character as exceptions to extradition, but the definition of these offences is extremely restrictive.

Paragraph 4. Notes with concern the close connection between international terrorism and transnational organised crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasises the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security.

92. The Government of Barbados and its Security and Law Enforcement Authorities share the Security Council's concerns about the inter-relationship among the various components of transnational crime, and are participating fully at the national, regional and international levels in the response to these threats to security.

93. As a small vulnerable country, Barbados is concerned that it has no capacity to defend itself against weapons of mass destruction. It is particularly concerned that despite the events of September 11th, and despite the emphatic objections of all Caribbean Basin states, the Caribbean Sea continues to be used as a route for the transhipment of hazardous nuclear materials, thus exposing these countries to the risk of a potential catastrophe in the event of terrorist action or accident.

Technical Cooperation

94. With respect to paragraph 1.4 of the Guidance For the Submission of Reports Pursuant to Paragraph 6 of Security Council Resolution 1373 (2001) of 28 September 2001, regarding the identification of areas in which states require additional guidance or technical assistance in implementing the resolution, Barbados as a small state with limited financial and technical resources, will require assistance in the implementation of some of the required counter-terrorism measures.

95. Technical assistance is required, both in the acquisition, and maintenance of appropriate technology as well as in the training of personnel in counter-terrorism techniques including detection of fraudulent travel documents. Financial assistance in acquiring additional equipment in order to upgrade the security of its ports of entry is also an urgent priority. Barbados' border control measures can be made more effective and more efficient through having early access to passenger, carrier and cargo information. This advance information should be provided electronically by the carriers, both airlines and ships, so that better profiling and targeting can be undertaken by the Law Enforcement Agencies. The technology already exists and is in use in other jurisdictions such as the United Kingdom, the United States, Canada, Australia, France and the Netherlands, but has not yet been shared with Barbados. Finally additional technical and financial assistance may be required to undertake technical studies reviewing our legislative and administrative capacity to implement many of the necessary actions to fight terrorism and the financing of the same.

96. The Government of Barbados remains committed to the fight against terrorism in whatever guise and wherever it occurs and against its financing, and will ensure that it does all that it can do given the challenges it faces.

Annexes to the Barbados report pursuant to paragraph 6 of Security Council resolution 1373 (2001)*

- Nassau Declaration on International Terrorism: The CARICOM Response
- Foreign Incursions and Mercenaries Act (Cap 174)
- Hijacking Act (Cap 135A)
- Money Laundering (Prevention and Control) Act (1998)
- Money Laundering (Prevention and Control) – (Amendment Act, 2001, Sec. 8A)
- Extradition Act (Cap 189)
- The International Business Companies Act (Cap 77)
- Offshore Banking Act (Cap 325)
- International Business (Miscellaneous Provisions) Act, 2001-29
- Income Tax Act (Cap 73)
- Foreign Sales Corporation Legislation (Cap 59C)
- The Companies Act (Cap 308)
- The Convention between the Government of Barbados and the Government of the United States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (1984)
- Proceeds of Crime Act (Cap 143)
- Exchange Control Act (Cap 71)
- Mutual Assistance in Criminal Matters Act. (Cap. 140 A)
- Financial Institutions Act (1996)
- The Public Order Act (Cap 168A Section 27 C)
- Criminal Procedure Act (Cap 127 Sec. 17 (1)
- Firearm Act, 1998-32
- Defence Act (Cap 159)
- Immigration Act (Cap 190)
- The Drug Abuse (Prevention and Control) Act (Cap 131)
- Administrative Justice Act (Cap 109B)
- Internationally Protected Persons (Cap 19)

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* The annexes are on file with the Secretariat and are available for consultation.

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Security Council

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English
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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Slovenia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72269 (E) 140102 280102

Annex

[Original: English]

Note verbale dated 24 December 2001 from the Permanent Mission of Slovenia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Slovenia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to transmit the report of the Republic of Slovenia on the implementation of Security Council resolution 1373 (2001) (see enclosure).

The Permanent Mission of the Republic of Slovenia to the United Nations avails itself of this opportunity to renew to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism the assurances of its highest consideration.

Enclosure

Report of the Republic of Slovenia on the implementation of Security Council resolution 1373 (2001)

Slovenia strongly condemns terrorism for which there is no justification. We have been actively participating in the international anti-terrorist coalition formed after the terrorist attacks of 11 September 2001. At international fora it supports and aligns itself with the initiatives and measures in the fight against terrorism adopted by the United Nations, the European Union, NATO, the Organization for Security and Cooperation in Europe, the Council of Europe and Central, Eastern and South-Eastern European countries.

Slovenia is a signatory to several bilateral and multilateral agreements or conventions relating to the fight against terrorism. These legally binding agreements define the obligations which Slovenia carries out with the relevant legislative and practical measures. In addition to those, Slovenia has been providing humanitarian and logistic aid for the people of Afghanistan and the wider region.

Pursuant to paragraph 6 of Security Council resolution 1373 (2001) and the guidance of the Security Council Counter-Terrorism Committee, the Government of the Republic of Slovenia, at its fifty-fifth session, on 20 December 2001, adopted the report on the implementation of measures in the fight against terrorism. The report is enclosed. These measures are carried out in compliance with the assumed international obligations and on the basis of applicable legislation, as well as in accordance with the decisions and guidelines of the Government of the Republic of Slovenia and the National Assembly of the Republic of Slovenia.

Operative paragraph 1

a) Prevent and suppress the financing of terrorist acts;

The Republic of Slovenia adopted the first Prevention of Money Laundering Act in 1995. The Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crimes was ratified in 1997. All legislation is in compliance with 40 Recommendations of the Financial Action Task Force (FATF) and on the EU Council Directive on prevention of the use of the financial system for the purpose of money laundering. On 25 October 2001 a new Money Laundering Act entered into force, which is in full compliance with all international standards and represents a new quality in the field of the fight against money laundering in the Republic of Slovenia. The new Money Laundering Act introduces some essential novelties, in particular:

- defining in detail and expanding of the circle of professionals, since the Act includes notaries, accountants, auditors and tax consultants,
- extending deadlines for temporary stopping suspicious transactions, which can be, under certain conditions, extended by the Office from 48 to 72 hours,
- extending the possibility of the use of information collected in the Office for detection and prosecution of serious criminal activities (including terrorism), and for seeking pecuniary advantages, acquired through these criminal activities,
- improving provisions of the Client Identification Act, and
- explicitly defining provisions for the control of the implementation of the Money Laundering Act by supervisory agencies (Office of the Republic of Slovenia for Money Laundering Prevention, Bank of Slovenia, Securities Market Agency, Insurance Supervision Agency, Office of the Republic of Slovenia for Gaming Supervision, the Slovenian Institute of Auditors, Bar Association and the Chamber of Notaries of the Republic of Slovenia).

The applicable legislation is a sound legal basis for the implementation of measures in the field of preventing the financing of terrorism, and enables immediate implementation of FATF conclusions, adopted in Washington on 31 October 2001.

b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

In the Republic of Slovenia, funds intended for the financing of terrorism can be seized on the basis of currently applicable legislation, if these funds derive from criminal offences. Should the funds intended for the financing of terrorist acts derive from legal sources, certain conditions have to be provided. One of the conditions is a suspicion that legally acquired funds would be used for the financing of a group for the purposes of perpetrating criminal offence. In compliance with Article 297 of the Penal Code the establishing of a group for the purposes of perpetrating criminal offence, a punishment exceeding five years of imprisonment may be applied. There are two criminal offences in the Penal Code indicating terrorism, i.e. terrorism (Article 355) and international terrorism (Article 388) for which the perpetrator shall be sentenced to imprisonment of over 5 years. This also means that the funds of perpetrators who associate with the aim of carrying out criminal offences linked to terrorism will be seized.

On 10 November 2001, Slovenia signed the UN Convention on the Suppressing of the Financing of Terrorism to be ratified in the first half of 2002. Before the ratification of the Convention, the Penal Code will be amended so that the financing of terrorism alone will be defined as a criminal act. Pursuant to Slovene legislation each crime may be a preliminary crime to crime of money laundering (all crime model), therefore this new crime will become a preliminary crime.

The Penal Code (Uradni list Republike Slovenije Nos. 63/94, 70/94 – amendment and 23/99 (Official Gazette of the Republic of Slovenia)) incriminates internal terrorism in Article 355 and international terrorism in Article 388:

Terrorism
Article 355

Whoever with the intention of jeopardising the constitutional order or security of the Republic of Slovenia, causes an explosion or fire, or commits any other act of violence endangering public safety, or threatens the use of nuclear materials or means of mass slaughter, thereby arousing fright and uncertainty among people, shall be punished to imprisonment for not less than three years.

International Terrorism
Article 388

(1) Whoever, with the intent of inflicting damage on a foreign country or an international organisation, kidnaps a person or commits some other act of violence, or causes an explosion or a fire, or endangers human life or property of substantial value by acts or means capable of causing danger to public, shall be sentenced to imprisonment for not less than one and not more than ten years.
(2) Whoever, with the intention of compelling a legal person, international organisation or state to perform or omit to perform a certain act, threatens to endanger or harm human life or property of substantial value by the use of nuclear force or other means of mass extermination shall be sentenced to imprisonment of not less than one year.
(3) If the criminal offence under the first and the second paragraphs of the present article entails the death of one or more persons, the perpetrator shall be sentenced to imprisonment for not less than five years.
(4) If the perpetrator, in the committing of a criminal offence under the first or second paragraphs of the present article, deliberately takes the lives of one or more persons, he shall be sentenced to imprisonment for not less than ten years or to thirty years.

In addition to the mentioned criminal offences, the Penal Code also contains the incriminations of other criminal offences, defined in international documents in the field of terrorism. Some examples: Article 144 defines the crime of kidnapping, Article 330 hijacking, Article 353 violence against the highest representatives of the State, Article 389 endangering of persons under international protection and Article 390 taking of hostages.

While drafting the analysis of the necessary amendments to the Slovene legislation in order to ratify the Convention for the Suppression of the Financing of Terrorism, it was noted that the convention requests the explicit incrimination of the financing of terrorism in national legislation. The financing of terrorism could be prosecuted in compliance with general provisions of the Penal Code on criminal support. Article 27 stipulates that any person who intentionally supports another person in the committing of a criminal offence shall be punished as if he himself had committed it or his sentence shall be reduced, as the case may be. In compliance with the second paragraph, support in the committing of a criminal offence shall be deemed to be constituted also by providing the perpetrator with the instruments of crime. Despite the above it is assessed that with the ratification of the International Convention on the Suppression of the Financing of Terrorism the financing of terrorism should be explicitly incriminated.

The Slovene criminal legislation adequately covers the provisions of the first and second paragraph of Article 8 of the Convention regarding the seizure of any funds, used or allocated for the purpose of committing criminal offences. This also applies to Articles 9, 10 and 11 of the Convention.

The issue of the refusal of the request for mutual legal assistance on the ground of bank secrecy, stipulated in the second paragraph of Article 12 of the Convention will be settled by an amendment to the Code of Criminal Procedure which has been placed on the agenda of the December session of the National Assembly of the Republic of Slovenia and will be discussed by a summary procedure. It also contains the proposal for the

amendment to Article 156 of the Code of Criminal Procedure which will enable the investigating judge, upon a proposal of the state prosecutor, in the case of investigating criminal offences, subject to criminal prosecution, to order a bank or another legal person carrying out financial business to disclose to him any information about the bank deposits of particular persons if such information might be material to detecting crimes, if required in the procedure of seizure of objects or securing claims.

The currently applicable Article 156 of the Code of Criminal Procedure limits the right of the investigating judge to order, upon a proposal of the state prosecutor, banks or another legal person carrying out financial business, to disclose to him any information about bank deposits of particular persons only to cases, in which there is suspicion that the person committed an officially prosecutable criminal offence connected to gaining pecuniary advantage.

The proposed amendment to Article 156 does not limit the right of the investigating judge to acquire certain confidential information from banks or another legal person carrying out financial business only in cases in which there is suspicion that the person committed an officially prosecutable criminal offence connected to gaining pecuniary advantage. The investigating judge is thus given an opportunity to acquire the information for investigating other criminal offences, prosecuted by an official duty (the investigating judge will need the information in order to establish a motive for the murder, high treason or international terrorism – or its financing; to find other participants in criminal offences; to find victims of these criminal offences, etc.)

The draft text of the Article shall expand the competence of the investigating judge in order to acquire the indicated information to cases in which the information is required to seize objects in compliance with Article 220 of the Code of Criminal Procedure or to secure the claim for the forfeiture of pecuniary advantage or property in the value equivalent to pecuniary advantage under Article 499 of the Code of Criminal Procedure.

c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or act at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

On the basis of the Restricted Measures Act (Uradni list Republike Slovenije No. 35/01) the Government of the Republic of Slovenia adopted the Decree on the Measures against the Taliban, in which legal and natural persons from the list of the UN Security Council are stated. A new decree on the measures against the Taliban is under preparation, which will, in compliance with the UN Security Council resolutions expand the list of legal and natural persons and organisations, related to terrorism. The Office of the Republic of Slovenia for Money Laundering Prevention duly verified all lists received from the UN Security Council in their data basis, as well as in the entire financial system of the Republic of Slovenia. The Office established that no legal or natural person availed itself of the funds in the Republic of Slovenia.

d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

See answers to subparagraphs above.

In addition, all banks are bound to inform the Office of the Republic of Slovenia for Money Laundering prevention of any financial transactions of legal and natural persons, stated in the above-mentioned lists.

Operative paragraph 2

a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

In the Chapter "Criminal Offence and Criminal Liability" of the General Provisions, the Penal Code incriminates collaboration, soliciting or supporting in the committing a criminal offence. Punishments set down for those providing support has been explained in operative paragraph 1 – subparagraph b. Only the regulation of collaborating and soliciting is, therefore, explained here. With reference to the support in criminal offence it should be added that supplying weapons can be concretely considered as support in criminal offence.

If two or more persons are engaged jointly in committing a criminal offence by collaborating in the execution thereof or by the performance of any act representing a decisive part of the committing of the offence in question (collaboration), each of these persons shall be punished according to the limits set down in the statutes for the offence in question.

Anybody who intentionally solicits another person to commit a criminal offence shall be punished as if he himself had committed it. With regard to sentences set down for the crime of terrorism and international terrorism listed in operative paragraph 1 – subparagraph b, the provision is also of importance which stipulates that anybody who intentionally solicits another person to commit a criminal offence for which the sentence of three years' imprisonment or a heavier sentence may be imposed under the statute, shall be punished for the criminal attempt even if the committing of such an offence had never been attempted.

Article 297 of the Penal Code incriminates the criminal offence of criminal association. Whoever establishes a group for the purposes of perpetrating criminal offences for which a punishment exceeding five years of imprisonment may be applied, is sentenced to imprisonment not exceeding three years. Whoever joins such a group is sentenced to imprisonment not exceeding one year. The punishment must be remitted for the founder or a member of the above group who prevents the committing of a criminal offence or provides timely information about it or discloses the organisation and its leaders. The intention to commit a criminal offence suffices for the punishment of the founder or a member of the above organisation even if the criminal offences have not been committed.

Article 309 of the Penal Code incriminates the manufacturing and acquiring of weapons and other means intended for committing a criminal offence. Whoever manufactures, acquires or keeps weapons, explosive materials or poisons which he knows to be intended for the committing of a criminal offence, or whoever provides another person with access to the same, is sentenced to imprisonment not exceeding three years. Article 310 defines the criminal offence of illegal manufacture of and trade in (acquiring, keeping, bartering, importing or exporting) weapons or explosive materials, the trade in which is completely prohibited or limited for individuals. The sentence set down for the basic criminal offence is imprisonment for not less than six months and not more than five years. If the offence involves a large quantity of or very valuable weapons or explosive materials, the perpetrator shall be sentenced to imprisonment for not less than one and not more than ten years.

b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other states by exchange of information;

Measures, tasks and activities of the Police relating to the prevention of terrorism can be categorised as follows:

- Obtaining operational information,
- Protection of protected persons and facilities,
- Thorough operational monitoring of all categories of foreigners (particularly those from the countries with high security risk),
- Prompt and thorough operational verification of all information indicating terrorist activities,

- Ensuring air traffic security,
- Co-ordination of tasks and measures in this field,
- Strict control over the state border.

Cooperation with foreign security bodies is conducted
- in accordance with the standards of the NCB INTERPOL work,
- by providing information relating to terrorism or international terrorism through a special cryptic system, which is our obligation since we are members of the Police Working Group on Terrorism,
- according to the principle of reciprocity,
- on the basis of signed bilateral agreements in the field of cooperation in preventing organised crime and terrorism.

c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

The control is exercised within the operative work of the Police, which, in accordance with its competencies, is engaged in discovering people for whom an arrest warrant (international or national) has been issued. The police has also ensured a relevant control over registration forms of persons accommodated in hotels, motels or in rooms rented by private persons.

d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

Crime of international terrorism under Article 388 of the Penal Code, quoted in operative paragraph 1 – subparagraph b relates to the acting against a foreign state. According to Article 120, Paragraph 1 of the Penal Code, it applies to anybody committing such a crime on the territory of the Republic of Slovenia.

The provision of Article 123, Paragraph 2 of the Penal Code should also be mentioned, which stipulates universal jurisdiction of Slovene courts and universal applicability of the Penal Code. The Slovene Penal Code is under the above provision applicable also to any foreigner who has committed a criminal offence against a foreigner country or against a foreign citizen if he has been apprehended in Slovenia and has not been extradited to a foreign country.

Slovene courts have not yet dealt with cases of crimes of international terrorism.

Provisions of the Code of Criminal Procedure (Uradni list RS, nos. 63/94, 70/94 – amendment, and 72/98) and of international conventions on the international legal aid in criminal matters are also of importance. A more detailed regulation in this regard is given in operative paragraph 2 – subparagraph f.

e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

As evident from the crime of international terrorism (Article 388 of the Penal Code), given in operative paragraph 1 – subparagraph b, the sentence set down for the basic crime is imprisonment for no less than one and no more than ten years. If the perpetrator, in committing the above crime, deliberately takes lives of one or more persons, he is sentenced to imprisonment for not less than ten years or to imprisonment of thirty years.

Pursuant to the provision of Article 37 of the Penal Code, a prison sentence may be imposed for a term not shorter than fifteen days and not longer than fifteen years. The sentence of thirty years' imprisonment may alternatively be prescribed for the intentional committing for the most serious crimes. In accordance with the above we assess

that it is clear that prison sentences for serious crimes of international terrorism are considered serious criminal acts.

> *f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings*;

The Republic of Slovenia ratified all important international documents, which contain provisions regarding international legal aid in criminal matters. Their direct application is guaranteed on the basis of Article 8 of the Constitution of the Republic of Slovenia, which stipulates that the ratified and published treaties are applied directly. The provisions regarding legal aid (petitions for legal aid and serving with a document), judgements passed by foreign courts, surrendering criminal prosecution and extradition are included in the Code of Criminal Procedure (Articles 514-537).

With regard to domestic law, as the second source in the area of international legal aid, the provisions of the Code on Criminal Procedure are clear, i.e. domestic law has a subsidiary character in relation to an international agreement.

In order to execute international legal aid in criminal matters, the provision of Article 514 of the Code of Criminal Procedure is important, which stipulates that international legal aid in criminal matters is administered pursuant to the provisions of the Code of Criminal Procedure unless provided otherwise by international agreements. In accordance with the diction of the provisions it is clear that providing international legal aid under the provisions of the Code of Criminal Procedure is of subsidiary character in relation to international agreements regulating this area. This means that international legal aid in criminal matters is administered according to the provisions of the mentioned Code only in those cases in which states have not concluded bilateral agreements or acceded to multilateral treaties.

One of the important mechanisms for the efficient implementation of international legal aid is a possibility of direct communication between Slovene and foreign judiciary authorities. The amended Code of Criminal Procedure (Uradni list Republike Slovenije, No. 72/98) stipulates that international legal aid in criminal matters is administered directly between national and foreign authorities which participate in criminal proceedings under the condition that reciprocity is applied or if so stipulated by an international agreement. Pursuant to the amended Code of Criminal Procedure, petitions for legal aid in emergency cases, under the condition of reciprocity, may be transmitted through the Ministry of the Interior (Interpol); when criminal acts relating to money laundering are in question, it may be transmitted through the competent authority for the prevention of money laundering.

In compliance with internal legislation of the Republic of Slovenia the execution of a judgement of conviction passed by a foreign court is possible if so provided by an international agreement, or if reciprocity exists.

A national court shall execute a judgement of conviction by pronouncing a sanction pursuant to criminal legislation of the Republic of Slovenia.

The Code of Criminal Procedure devotes special chapter to extradition (Articles 521-536) and foresees detailed solutions regarding the conditions for extradition as well as the individual proceeding. Article 521 stipulates that, unless provided otherwise in the international agreement, the extradition of accused and convicted persons is requested and carried out pursuant to the provisions of the Code. The Code of Criminal Procedure is thus subsidiary to international agreements.

The court decides whether all legal conditions for extradition have been fulfilled, while the final decision on extradition is issued by the Minister of Justice.

Legal conditions for extradition on which the court decides are enumerated in Article 522 of the Code of Criminal Procedure:

- a person whose extradition is requested is not a citizen of the Republic of Slovenia;
- an act which prompted the request for extradition was not committed in the territory of the Republic of Slovenia, against the Republic of Slovenia or against its citizens;
- dual criminality;
- criminal prosecution or the execution of punishment was not statute-barred;
- *ne bis in idem*;
- the identity of the person whose extradition is requested has been established;
- there is sufficient evidence to suspect that the person whose extradition is requested has committed a criminal offence for which the extradition is requested.

Pursuant to the decision of the Court that legal conditions for extradition have been fulfilled, the Minister of Justice renders a ruling, on the basis of which it is determined whether the extradition is granted or not. The Minister may also render a decision to postpone extradition because a criminal proceeding is underway against the foreigner in Slovenia or because the person serves prison sentence.

The Minister may reject extradition of a foreigner if he enjoys the right of asylum, if the military or political criminal offence is in question, and if there are other reasons, defined in international agreements.

The decision rendered by the Minister of Justice contains the conditions under which extradition is granted (a person may not be prosecuted for another criminal offence committed prior to extradition, he may not be punished for another criminal offence committed before his extradition, a severer punishment than the one to which he was sentenced may not be imposed on him, he may not be surrendered to a third country for prosecution of a criminal offence which he had committed before his extradition was granted.)

International cooperation of Police is described in Operative paragraph 2 – subparagraph b).

> *(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;*

In the Republic of Slovenia, this area is governed by the Aliens Act (Uradni list Republike Slovenije No.61/99). The provisions directly relating to the issue are the following (parts of the articles are quoted):

> Article 7
> For the purpose of entering the Republic of Slovenia, aliens must be in possession of a valid travel document, unless otherwise determined by law or by an international agreement.
>
> Article 9
> Aliens shall be refused entry into the country if they pose a threat to public order and peace, and to the security and international relations of the Republic of Slovenia, or if there is a suspicion that their presence is associated with the carrying-out of terrorist and other violent acts, illegal intelligence activities, drug possession and trafficking, or other criminal acts. The refusal of entry shall be entered in the alien's travel document, and in the record of persons who have been refused entry.
>
> Article 10
> In addition to personal, vehicle and item checks in accordance with the act governing control of the state border, the border control of aliens entering the country shall consist of a thorough examination of whether there are reasons for refusing entry into the country on the basis of Article 9 of this Act.

The border control of aliens leaving the country shall, in particular, comprise control required for protecting public peace and order, and other domestic and international interests of the Republic of Slovenia.
The bodies of the Republic of Slovenia responsible for exercising border control shall co-operate with and ensure mutual assistance of the competent bodies of neighbouring and other countries and with international organisations, in accordance with adopted international acts.

Article 20
An alien shall not be issued with a visa if there are reasons for refusing entry in accordance with Article 9 of this Act.

Article 43
A permit for residence in the Republic of Slovenia shall not be issued to an alien if there are reasons for refusing entry into the Republic of Slovenia pursuant to Article 9 of this Act, or if there are reasons for refusing to issue a visa pursuant to Article 20 of this Act;

Article 44
A residence permit may be annulled by the body which issued this permit if it is subsequently determined that there were reasons for refusing to issue a permit; if reasons subsequently arise for refusing to issue a permit; or if the alien concerned intentionally submitted incorrect data on their identity or other inaccurate data; or if the alien intentionally concealed circumstances which have a bearing on the issuing of a permit.

Article 48
A permit for permanent residence in the Republic of Slovenia issued to an alien may be annulled if there are well-founded reasons for believing that the alien concerned may pose a threat to national security or to public security and peace.

Article 50
An alien who has to be deported from the country shall be brought to the state border by the police and directed across the border. The police shall also bring to and direct across the state border an alien who is being deported on the basis of an international agreement.

Article 76
An alien who is in possession of a permit for residence in the Republic of Slovenia may be issued with a travel document for aliens if the person concerned is stateless, and if the person does not have and cannot acquire a valid travel document from his/her country of origin. A travel document for aliens may also be issued to other aliens who do not have a valid travel document if well-founded reasons exist for this.

Article 79 lays down conditions for refusing the issuing of travel documents to aliens, and for their seizure.

Article 80 lays down conditions for issuing personal identity cards to aliens, and reasons for their seizure.

For more effective implementation of measures to refuse a permit to aliens whose residence is associated with the commission of terrorist acts, the Republic of Slovenia drafted a Bill amending the Aliens Act. In this Bill, submitted for adoption to the National Assembly, the provision of Article 43 of the Aliens Act has been amended. It explicitly determines that the issuing of a permit for residence in the Republic of Slovenia may be refused if there are well-founded reasons that an alien may pose a serious threat to public order and security or to international relations of the Republic of Slovenia, or reasons that their residence in the country is associated with the commission of terrorist and other violent acts, illegal intelligence activities, drug possession and trafficking, or other criminal acts.

The new provision is of great importance since the competent body deciding on the matter is not bound to explain the reasons for refusal. This is also one of the measures to secure public interest.

In addition to the above, it has to be explained that the Citizenship Act provides for a special measure relating to the loss of citizenship, in particular the deprivation of citizenship in the case when the conduct of a Slovene citizen who is also in possession of foreign citizenship is harmful to international or other interests of the Republic of Slovenia, e.g. if a person is a member of an organisation whose activity is aimed at undermining the constitutional order of the Republic of Slovenia.

The admission to citizenship is refused to an alien whose admission would pose a threat to the national security (Article 10, Paragraph 1 Item 8 of the Citizenship of the Republic of Slovenia Act), and the executive regulation to the above provision sets out that this threat is also present when a person is a member of, participates in, supports or in any way facilitates organisations or groups preparing or committing violent acts.

At the operative level, the Police tightened control at the state border, in particular with regard to persons entering Slovenia. The implementation of all operative tasks within the country has been intensified. In cooperation with the competent authorities, concrete forms of work in ensuring security of certain facilities of particular importance (international airport, nuclear power plant) have been agreed upon. The Aliens Centre carries out certain measures to limit the possibility for persons who illegally entered the Republic of Slovenia to leave the buildings in which they are accommodated illegally or without control.

Operative paragraph 3

a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

In Slovenia, a number of formal and informal interministerial groups have been established with a view to facilitating a more efficient exchange and fluctuation of relevant information between different national institutions (Slovene Intelligence and Security Agency, Ministry of Defence – Intelligence and Security Service, Customs Administration of the RS, Ministry of Foreign Affairs, Ministry of the Economy, Ministry of Transport, Ministry of Health, Office of the RS for Money Laundering Prevention, etc.). These groups deal with and resolve current open issues and seek new, more appropriate solutions for future work.

On the international scale, the Police has, apart from the mentioned forms of cooperation (INTERPOL, PWGT, etc.), established intensive links with foreign police and security and intelligence agencies, with which relevant information on terrorism is being maintained and exchanged. Slovenia signed an agreement on cooperation with Europol on 1 October 2001.

b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

Exchange of information and cooperation in these areas is being carried out on the basis of internal legislation and ratified international treaties. For a detailed explanation see the foregoing paragraphs.

c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

For a detailed explanation see the foregoing paragraphs.

d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

The signing and ratification of all documents relating to the anti-terrorist fight are the priorities of the National Assembly and of the Government of the Republic of Slovenia, which is evident from the Declaration of the National Assembly on joint fight against terrorism (Official Gazette RS, No. 81/2001).

A. Instruments of universal nature

I UNITED NATIONS ORGANIZATION

1. **Convention on the Prevention and Punishment of Crimes against International Protected Persons, including Diplomatic Agents**, depositary: Secretary-General of the United Nations, New York, 14 December 1973.
Slovenia succeeded the Convention.

2. **International Convention against the Taking of Hostages**, depositary: Secretary-General of the United Nations, New York, 17 December 1979.
Slovenia succeeded the Convention.

3. **International Convention for the Suppression of Terrorist Bombings**, depositary: Secretary-General of the United Nations, New York, 15 December 1997.
Slovenia signed the Convention on 30 October 1998; the process of ratification is underway.

4. **International Convention for the Suppression of the Financing of Terrorism**, depositary: Secretary-General of the United Nations, New York, 9 December 1999.
Slovenia signed the Convention on 10 November 2001; the process of ratification is underway.

II INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

5. **Convention on Offences and Certain Other Acts Committed on Board Aircraft**, depositary: ICAO Secretary General, Tokyo, 14 September 1963.
Slovenia succeeded the Tokyo Convention.

6. **Convention for the Suppression of Unlawful Seizure of Aircraft**, depositary: the United Kingdom, The Hague, 16 December 1970.
Slovenia succeeded The Hague Convention.

7. **Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation**, depositary: the United Kingdom, the United States and the Russian Federation, Montreal, 23 September 1971.
Slovenia succeeded the Convention.

8. **Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation**, complementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft, depositary ICAO Secretary General, the United Kingdom and the Russian Federation, Montreal, 24 December 1988.
Slovenia succeeded the Protocol.

9. **Convention on the Marking of Plastic Explosives for the Purpose of Detection**, depositary: ICAO Secretary General, Montreal, 1 February 1991.
Slovenia ratified the Convention.

III INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA)

10. **Convention on the Physical Protection of Nuclear Material**, depositary: IAEA Director General, Vienna, 3 March 1980.
Slovenia succeeded the Convention.

IV INTERNATIONAL MARITIME ORGANIZATION (IMO)

11. **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation**, depositary: IMO Secretary-General, Rome, 10 March 1988.
Slovenia has not yet acceded to the Convention. The relevant ministry is currently drafting the accession initiative. The initiative will be included in the programme of work of the Ministry of Transport/Government of the Republic of Slovenia for the first half of 2002.

12. **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf**, depositary: IMO Secretary-General, Rome, 10 March 1988.
Slovenia has not yet acceded to the Protocol. The relevant ministry is currently drafting the accession initiative. The initiative will be included in the programme of work of the Ministry of Transport/Government of the Republic of Slovenia for the first half of 2002.

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

See the list included in the foregoing subparagraph as well as measures and legislation as set out in the relevant subparagraphs. In compliance with national measures, positions and guidelines, Slovenia fully and completely supports the above resolutions.

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts;

Article 4, Paragraph one of the Asylum Act of the Republic of Slovenia defines in detail the grounds for exemption.

Right to asylum shall not be granted to persons reasonably suspected:
- of having committed a crime against peace, a war crime or a crime against humanity as stipulated by international documents;
- of having committed a serious non-political crime in a country other than the Republic of Slovenia before being admitted to the Republic of Slovenia as refugees;
- of having committed acts contrary to the purposes and principles of the United Nations.

The last indent was added at the time of the adoption of the act amending the Asylum Act in August 2001.

The text of the Act clearly shows that the right to asylum shall not be granted to aliens having committed certain criminal offences and consequently, they are not entitled to protection - crimes against peace, war crimes or crimes against humanity as stipulated by international documents. The protection shall also not be granted to those persons who committed a serious non-political crime in a country other than the Republic of Slovenia before being admitted to the Republic of Slovenia. In the initial phase of the procedure, additional checking in respect of suspicious persons is carried out on the basis of the existing operative registers of the Ministry of the Interior.

With all persons applying for refugee status (asylum), the Police, in a preliminary interview, establishes actual reasons for acquiring refugee status as laid down in the Slovene legislation. All available information and data are

checked operatively in order to prevent possible abuse of refugee status for the commission of criminal offences relating to terrorism.

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organisers or facilitators of terrorist acts, and that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists;

The Minister of Justice shall decline extradition of an alien, in compliance with internal legislation of the Republic of Slovenia (Article 530 of the Criminal Procedure Act), who enjoys the right of asylum in Slovenia or who has committed a military or political offence. In Slovenia, there were no instances of requests for extradition on the grounds of a political offence as yet.

See the explanation in the foregoing subparagraph.